

Table of Contents

Agenda	5
II-1. Report of Board of Bids and Contracts dated October 21, 2013.	
Agenda Report No. II-1	11
II-4. Preliminary Estimates	
Agenda Report No. II-4	14
II-5a. Petition for Paving to Serve Bellechase Third Addition. (District II)	
Agenda Report No. II-5a	18
Resolution No. 13-191	19
Supporting Documents	22
II-6a. Community Events - Say Grace 5K. (District VI)	
Agenda Report No. II-6a	28
II-6b. Community Events - Food Trucks at the Fountains. (District I)	
Agenda Report No. II-6b	30
II-6c. Community Events - Inspire Hope 8K. (District II)	
Agenda Report No. II-6c	31
II-6d. Community Events - Girls on the Run Fall 5K. (District II)	
Agenda Report No. II-6d	32
II-7a. Partial Acquisition of Land at the Southwest Corner of North Hillside and East 9th Street for the Redbud Multi-Use Path, Interstate 135 to Oliver. (District I)	
Agenda Report No. II-7a	33
Supporting Documents	34
II-7b. Acquisition of 10929 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)	
Agenda Report No. II-7b	38
Maps and Real Estate Purchase Agreement	39
II-7c. Acquisition of 650 South Webb for the Improvement of Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)	
Agenda Report No. II-7c	45
Maps and Real Estate Purchase Agreement.	46
II-7d. Partial Acquisition of 1721 West 27th Street North for the Amidon, 21st Street North to 29th Street North Improvement Project. (District VI)	
Agenda Report No. II-7d	52
Supporting Documents	53
II-7e. Partial Acquisition of 2902 North Amidon for the Amidon, 21st Street North to 29th Street North Improvement Project. (District VI)	
Agenda Report No. II-7e	58
Supporting Documents	59

II-9. Notice of Intent to Use Debt Financing Amendment - Electrical Equipment and Cabling, Package 25 - Wichita Mid- Continent Airport.	
Agenda Report No. II-9	64
Resolution No. 13-192	65
II-10. Contract Renewal with Sedgwick County for Housing First Funding.	
Agenda Report No. II-10	67
Contract.	68
II-11. Partial Loan Forgiveness Request, Home Repair Program. (District I)	
Agenda Report No. II-11	81
II-12. 2012 Community Services Block Grant Budget Adjustment.	
Agenda Report No. II-12	83
II-13. Contract for Paratransit Service Review.	
Agenda Report No. II-13	85
Contract.	86
II-14. Report on Claims for September 2013.	
Agenda Report No. II-14	94
II-15. Payment for Settlement of Claim.	
Agenda Report No. II-15	95
II-16. Acquisition by Eminent Domain of Tracts Required for the Chemical Sewer Odor Control Site at 2300 North Broadway (District VI)	
Agenda Report No. II-16	96
Resolution No. 13-193	97
Ordinance No. 49-591.	98
EXHIBIT D	100
EXHIBIT E	101
II-17. Sale of City Property at 1304 West 55th Street South. (District IV)	
Agenda Report No. II-17	102
Sale of City Property at 1304 West 55th Street South (District IV)	103
Sale of City Property at 1304 West 55th Street South (District IV)	104
II-18. Job Access and Reverse Commute (JARC) and New Freedom Contracts.	
Agenda Report No. II-18	108
2013 JARC ESS Transportation for Employment.	109
2013 JARC MHA SETEP	135
2013 JARC WT Enhanced Services	161
2013 NF BTC TESPS.	187
2013 NF WT Mobility Management	213
II-19. Selection of Vendors for the Computer PC Accessories and Peripherals.	
Agenda Report No. II-19	239

Contract.	240
II-20. Ordinance Changes to the Wichita/Sedgwick County Building and Trade Code.	
Agenda Report No. II-20	247
Ordinance No. 49-593.	249
Delineated Ordinance.	254
II-21. Sale of City Property at the Southeast Corner of Oliver and Kellogg. (District III)	
Agenda Report No. II-21	260
Supporting Documents	261
II-22. Termination of Agreement - Planeview Community Library. (District III)	
Agenda Report No. II-22	267
Termination of Planeview Library Agreement 2013.	268
II-23. Second Reading Ordinances.	
Agenda Report No. II-23	269
II-24. *VAC2013-00016 - Request to vacate an alley dedicated by separate instrument and a portion of a platted alley on property generally located south of Lincoln Street, on the east side of Topeka Avenue. (District III)	
Agenda Report No. II-24	271
Vacation Order	273
Covenant	275
Utility Easement.	277
II-25. *ZON2013-00020 – Zone change from SF-5 Single-Family Residential and Two-Family Residential to LC Limited Commercial (LC) on property generally located east of Waco Avenue, south of Harry Street, between Water Street and Wichita Street. (District III)	
Agenda Report No. II-25	279
Ordinance No. 49-592.	281
Background Information.	282
II-26. *VAC2013-00029 - Request to vacate a portion of a platted setback on property generally located south of 13th Street North, on the west side of Maize Road and on the south side of Maize Court. (District V)	
Agenda Report No. II-26	287
Vacation Order	289
II-27. *VAC2013-00030 - Request to vacate an easement described in the platlor's text on property generally located east of Seneca Street, on the south side of Harry Street. (District IV)	
Agenda Report No. II-27	291
Vacation Order	293
II-28. *VAC2013-00034 - Request to vacate a portion of a platted drainage easement and a platted utility easement on property generally located on the southwest corner of Central Avenue and Webb Road. (District II)	
Agenda Report No. II-28	295
Vacation Order	297

II-29. *VAC2013-00035 - Request to vacate a portion of a
platted setback and a platted utility easement on property
generally located south of Central Avenue, on the west side of
Webb Road. (District II)

Agenda Report No. II-29 299

Vacation Order 301

II-30. *WAA Board of Bids and Contracts dated October 21,
2013.

Agenda Report No. II-30 303

FINAL
CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
09:30 a.m. October 22, 2013

First Floor Board Room
455 North Main

OPENING OF REGULAR MEETING

- Call to Order
- Approve the minutes of the regular meeting on October 8, 2013

II. CONSENT AGENDAS (ITEMS 1 THROUGH 30)

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

None

IX. COUNCIL MEMBER APPOINTMENTS

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

****Workshop to follow****

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 30)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated October 21, 2013.

RECOMMENDED ACTION: Receive and file report; approve Contracts;
authorize necessary signatures.

2. Applications for Licenses:

<u>Renewal</u>	<u>2013</u>	<u>Address</u>
Ernest Doyon	Vegas Video	8223 West Kellogg

RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2013</u>	<u>(Consumption on Premises)</u>
J. Larry Fugate	Pizza Hut**	2181 North Rock Road
J. Larry Fugate	Pizza Hut**	1708 East Pawnee
Eugene Vitarelli	Sierra Hills Golf Club**	13420 East Pawnee
Imna Fragoso	Los Molcajetes**	901 East Harry

**General/Restaurant (need 50% or more gross revenue from sale of food)

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

4. Preliminary Estimates:

RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:

- a. Petition for Paving to Serve Bellechase Third Addition. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

6. Consideration of Street Closures/Uses.

- a. Community Events - Say Grace 5K. (District VI)
- b. Community Events - Food Trucks at the Fountains. (District I)
- c. Community Events - Inspire Hope 8K. (District II)
- d. Community Events - Girls on the Run Fall 5K. (District II)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

7. Property Acquisitions:

- a. Partial Acquisition of Land at the Southwest Corner of North Hillside and East 9th Street for the Redbud Multi-Use Path, Interstate 135 to Oliver. (District I)
- b. Acquisition of 10929 East Kellogg for the Improvement of the Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)
- c. Acquisition of 650 South Webb for the Improvement of Kellogg Avenue, US Highway 54 from Cypress to Chateau. (District II)
- d. Partial Acquisition of 1721 West 27th Street North for the Amidon, 21st Street North to 29th Street North Improvement Project. (District VI)
- e. Partial Acquisition of 2902 North Amidon for the Amidon, 21st Street North to 29th Street North Improvement Project. (District VI)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

8. Minutes of Advisory Boards/Commissions

Police and Fire Retirement System, August 28, 2013
Stormwater Advisory Board, July 19, 2013
Joint Investment Committee, September 5, 2013

RECOMMENDED ACTION: Receive and file.

9. Notice of Intent to Use Debt Financing Amendment - Electrical Equipment and Cabling, Package 25 - Wichita Mid-Continent Airport.

RECOMMENDED ACTION: Adopt the Amending Resolution and authorize the necessary signatures.

10. Contract Renewal with Sedgwick County for Housing First Funding.

RECOMMENDED ACTION: Approve the contract agreement renewal and authorize the necessary signatures.

11. Partial Loan Forgiveness Request, Home Repair Program. (District I)

RECOMMENDED ACTION: Approve the partial loan forgiveness request, based on a selling price of \$10,000, with one-half of the net proceeds from the approved sale to be paid to the City, and authorize the necessary signatures.

12. 2012 Community Services Block Grant Budget Adjustment.

RECOMMENDED ACTION: Approve the 2012 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

13. Contract for Paratransit Service Review.

RECOMMENDED ACTION: Approve the contract with Robbie Sarles and Associates and authorize the necessary signatures.

14. Report on Claims for September 2013.

RECOMMENDED ACTION: Receive and file.

15. Payment for Settlement of Claim.

RECOMMENDED ACTION: Authorize payment of \$12,500 as full settlement of all possible claims arising out of the events which are the subject of this claim.

16. Acquisition by Eminent Domain of Tracts Required for the Chemical Sewer Odor Control Site at 2300 North Broadway. (District VI)

RECOMMENDED ACTION: Adopt the resolution; place the condemnation ordinance on first reading; and authorize the necessary signatures.

17. Sale of City Property at 1304 West 55th Street South. (District IV)

RECOMMENDED ACTION: Approve the real estate purchase agreement and authorize all necessary signatures.

18. Job Access and Reverse Commute (JARC) and New Freedom Contracts.

RECOMMENDED ACTION: Approve the JARC and New Freedom contracts with the awarded sub-recipients.

19. Selection of Vendors for the Computer PC Accessories and Peripherals.

RECOMMENDED ACTION: Approve the contract and authorize the necessary signatures.

20. Ordinance Changes to the Wichita/Sedgwick County Building and Trade Code.

RECOMMENDED ACTION: Approve the proposed amendments to the Wichita/Sedgwick County Building and Trade Code.

21. Sale of City Property at the Southeast Corner of Oliver and Kellogg. (District III)

RECOMMENDED ACTION: Approve the real estate purchase agreement and authorize all necessary signatures.

22. Termination of Agreement - Planeview Community Library. (District III)

RECOMMENDED ACTION: Approve the termination agreement and authorize the necessary signatures.

23. Second Reading Ordinances: (First Read October 8, 2013)

RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

24. *VAC2013-00016 - Request to vacate an alley dedicated by separate instrument and a portion of a platted alley on property generally located south of Lincoln Street, on the east side of Topeka Avenue. (District III)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

25. *ZON2013-00020 – Zone change from SF-5 Single-Family Residential and Two-Family Residential to LC Limited Commercial (LC) on property generally located east of Waco Avenue, south of Harry Street, between Water Street and Wichita Street. (District III)

RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the zone change and place the ordinance establishing the zone change on first reading (simple majority required).

26. *VAC2013-00029 - Request to vacate a portion of a platted setback on property generally located south of 13th Street North, on the west side of Maize Road and on the south side of Maize Court. (District V)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

27. *VAC2013-00030 - Request to vacate an easement described in the platlor's text on property generally located east of Seneca Street, on the south side of Harry Street. (District IV)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

28. *VAC2013-00034 - Request to vacate a portion of a platted drainage easement and a platted utility easement on property generally located on the southwest corner of Central Avenue and Webb Road. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

29. II-29. *VAC2013-00035 - Request to vacate a portion of a platted setback and a platted utility easement on property generally located south of Central Avenue, on the west side of Webb Road. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

II. CONSENT HOUSING AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Fern Griffith, Housing Member is also seated with the City Council.

None

II. CONSENT AIRPORT AGENDA ITEMS

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

30. ***WAA Board of Bids and Contracts dated October 21, 2013.**

RECOMMENDED ACTION: Receive and file the report, approve the contracts, and authorize the necessary signatures.

Wichita, Kansas
October 21, 2013
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Martha Strayer, Administrative Assistant, Public Works Engineering in the Chair; Fanny Chan, Accountant, Finance, representing the Director of Finance, Troy Tillotson, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Eoghan Miller, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated October 7, 2013 were read and on motion approved.

Bids were opened October 18, 2013, pursuant to advertisements published on:

Water Distribution System to serve Bellechase 3rd Addition (north of Harry, east of 127th Street East) (448-90576/735484/470157) Does not affect existing traffic. Rocky Creek to serve Bellechase 3rd Addition (north of Harry, east of 127th Street East) (472-85078/766290/490308) Does not affect existing traffic. (District II)

Mies Construction - \$59,982.00 - Group 1
 \$748,512.91 - Group 2
 \$808,494.91 - Bid Total

Water Distribution System to serve The Woods Addition (east of 151st Street West, north of Maple) (448-90505/735493/470166) Does not affect existing traffic. (District V)

Nowak Construction - \$41,728.50

Water Distribution System to serve Woods North 3rd Addition (south of 29th Street North, west of 127th Street East) (448-90555/735495/470168) Does not affect existing traffic. Lateral 430, Four Mile Creek Sewer to serve Woods North 3rd Addition (south of 29th Street North, west of 127th Street East) (468-84822/744357/480049) Does not affect existing traffic. (District II)

B-2 Excavating \$41,399.35- Group 1
 \$93,443.46- Group 2
 \$134,842.81 - Bid Total

2013 Contract Maintenance CIP Concrete Repairs Phase 1 (north of 63rd Street South, east of 135th Street West) (472-85086/707045/132726/620570/636246/133116/211510/132726/661686/ 771633/133116) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,IV)

PPJ Construction* - \$715,672.00 *Awarded for the Engineer's Estimate

The Purchasing Manager recommended that the contract be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate.

On motion the Board recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate.

**HOUSING AND COMMUNITY SERVICES DEPARTMENT/PUBLIC HOUSING
DIVISION: Replace Roofs and Siding Residential Sites.**

ACC Roofing Inc. - \$950,600.00 – Base Bid

\$1.82 – Alternate No 1. per square feet

\$2.04 – Alternate No. 2. per square feet

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION:
Rebuild Existing Raven 4600 Spray Rig.**

Fairbank Equipment Inc. - \$32,182.43

**PUBLIC WORKS AND UTILITIES DEPARTMENT/SEWAGE TREATMENT/SEWER
MAINTENANCE: Solidify/Dispose of Non-Hazardous Liquid Waste.**

No Bids Received

Reddi Industries, Inc.* - \$108,940.00 (Negotiated by Purchasing Manager)

*Estimate – Contract approved on unit cost basis; refer to attachments.

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION:
Remodel and Alter Space Linwood Recreation Center.**

Bauer and Son Construction Co. Inc. - \$141,900.00

LIBRARY: On-Call Security Services Central Library.

Total Security Solutions*- \$3,000.00 – Base Bid – Group 1

*Estimate – Contract approved on unit cost basis; refer to attachments.

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION:
Thermal Imaging camera.**

Defer one week

**PUBLIC WORKS AND UTILITIES DEPARTMENT/SEWAGE TREATMENT
DIVISION/AND SEWER MAINTENANCE: Roller Rebuild.**

Ashbrook Simon Hartley* - \$54,540.80

*Purchases utilizing Sole Source of Supply Ordinance No. 35-856, Section 2. (b)

The Purchasing Division recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board of Bids recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

Martha Strayer, Administrative Assistant,
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

**NOT TO BE ADVERTISED
PRELIMINARY ESTIMATES
FOR CITY COUNCIL OCTOBER 22, 2013**

The cost of **PRELIMINARY ESTIMATE** for Lateral 8, Main 18, Four Mile Creek Sewer, to serve Bellechase Third Addition (District II) (468-84858/744345/480-037) – Total Estimated Cost \$169,560.

To the City Council
Wichita, Kansas

Date of CC 10/22/13
(OCA/PROJ) 744345/468-84858
(PPN) 480-037

THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS

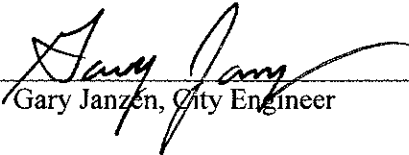
PRELIMINARY ESTIMATE of the cost of Lateral 8, Main 18, Four Mile Creek Sewer, to serve Bellechase Third Addition . (District II)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost \$169,560

CITY OF WICHITA
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.



Gary Janzen, City Engineer

Sworn to and subscribed before me this _____ day of _____, 2013.

City Clerk

The cost of Lateral 8, Main 18, Four Mile Creek Sewer, to serve Bellechase Third Addition.
(District II) (468-84858/744345/480-037) – Total Estimated Cost \$169,560.

Page _____ Exhibit _____

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Petition for Paving to Serve Bellechase Third Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the revised petition and adopt the amending resolution.

Background: On January 8, 2013, the City Council approved a petition for paving improvements to serve Bellechase Third Addition. An attempt to award a construction contract within the budget set by the petition was not successful. The developer has submitted a new petition with an increased budget. The signature on the petition represents 100% of the improvement district and the petition is valid per Kansas Statute.

Analysis: The project will provide paving of three streets to serve a new residential development located north of Harry, east of 127th Street East.

Financial Considerations: The total of the original petition was \$715,000. The total of the revised petition is \$892,000. The funding source is special assessments.

Legal Considerations: The Law Department has reviewed and approved the petition and amending resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the petition, adopt the amending resolution, and authorize the necessary signatures.

Attachments: Map, budget sheet, petition, and amending resolution.

First Published in the Wichita Eagle on October 25, 2013

RESOLUTION NO. 13-191

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **ROCKY CREEK ROAD; FROM THE NORTH LINE OF BELLECHASE TO THE NORTH LINE OF LOT 7, BLOCK 2, BELLECHASE THIRD ADDITION; BELLECHASE; FROM THE SOUTH LINE OF BELLEHCASE THIRD ADDITION TO THE WESTERLY LINE OF LOT 8, BLOCK 5, BELLECHASE THIRD ADDITION, INCLUDING BELLECHASE CT. (NORTH OF HARRY, EAST OF 127TH STREET EAST) 472-85078** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **ROCKY CREEK ROAD; FROM THE NORTH LINE OF BELLECHASE TO THE NORTH LINE OF LOT 7, BLOCK 2, BELLECHASE THIRD ADDITION; BELLECHASE; FROM THE SOUTH LINE OF BELLEHCASE THIRD ADDITION TO THE WESTERLY LINE OF LOT 8, BLOCK 5, BELLECHASE THIRD ADDITION, INCLUDING BELLECHASE CT. (NORTH OF HARRY, EAST OF 127TH STREET EAST) 472-85078** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 13-001 adopted on **January 8, 2013** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct pavement on **Rocky Creek Road; from the north line of Bellechase to the north line of Lot 7, Block 2, Bellechase Third Addition; Bellechase; from the south line of Bellehcasse Third Addition to the westerly line of Lot 8, Block 5, Bellechase Third Addition, including Bellechase Ct. (north of Harry, east of 127th Street East) 472-85078.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Eight Hundred Ninety-Two Thousand Dollars (\$892,000)** exclusive of the cost of interest on borrowed money, with 100 Percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **September 1, 2013**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement

district described as follows:

BELLECHASE THIRD ADDITION

Lots 1 through 7, Block 1
Lots 11 through 17, Block 2
Lots 1 through 3, Block 3
Lots 36 through 52, Block 3
Lots 8 through 27, Block 5
Reserve C

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: The following lots and tracts in Bellechase Third Addition, Wichita, Sedgwick County, Kansas shall each pay 1/55 of the total cost of the improvement district:

BELLECHASE THIRD ADDITION

Lots 1 through 7, Block 1
Lots 11 through 17, Block 2
Lots 1 through 3, Block 3
Lots 36 through 52, Block 3
Lots 8 through 27, Block 5
Reserve C

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 1980 Supp. 12-6a01 et seq.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this 22nd day of

October, 2013.

CARL BREWER, MAYOR

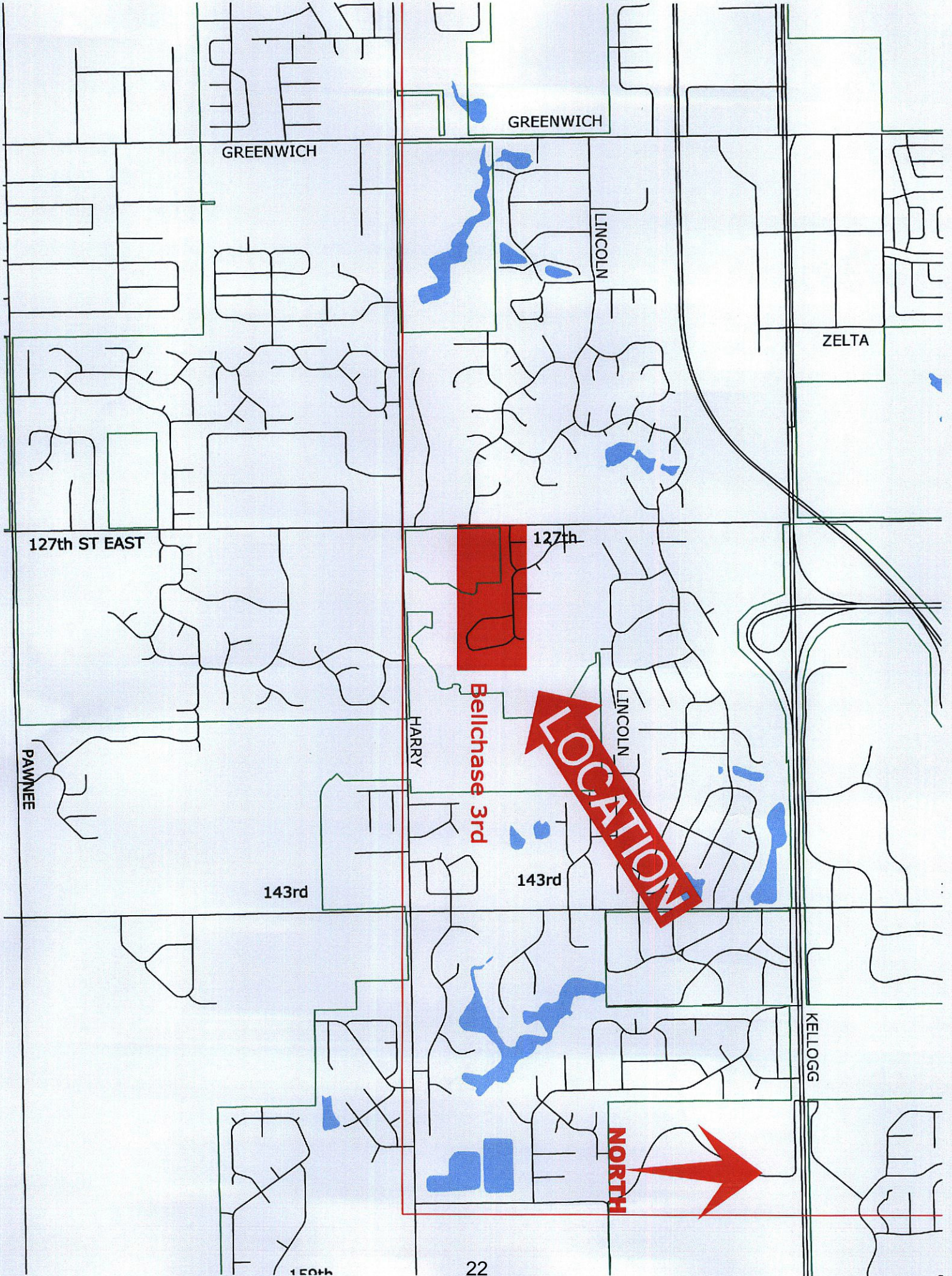
ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY E. REBENSTORF
DIRECTOR OF LAW



Project Request

☐ CIP ☒ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT

☐ ORDERED BY WCC

☒ PETITION

PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities

DIVISION: Engineering

RESOLUTION/ORDINANCE #: 13-

FUND: 400 Street Improvements

SUBFUND: 490 Paving N.I.

ENGINEERING REFERENCE #: 472-85078

COUNCIL DISTRICT: 02 Council District 2

DATE COUNCIL APPROVED: Oct 22, 2013

REQUEST DATE:

PROJECT #: 490308

PROJECT TITLE: Paving Improvements to serve Bellechase 3rd Addition

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: Paving Improvements to serve Bellechase 3rd Addition

OCA #: 766290

OCA TITLE: Paving Improvements to serve Bellechase 3rd Addition

PERSON COMPLETING FORM: Joni Chamberlain

PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman

PHONE #: 268-4236

☐ NEW BUDGET

☒ REVISED BUDGET

Revenue Object Level 3

Original Budget	Adjustment	New Budget
9730 S.A. Bonds	\$715,000.00	\$177,000.00
	\$0.00	\$0.00
	\$0.00	\$0.00
	\$0.00	\$0.00
	\$0.00	\$0.00
	\$715,000.00	\$177,000.00
	\$892,000.00	

Expense Object Level 3

2999 Contractuals	\$715,000.00	\$177,000.00	\$892,000.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
Total Expense:	\$715,000.00	\$177,000.00	\$892,000.00

NOTES:

SIGNATURES REQUIRED

DIVISION HEAD:

DEPARTMENT HEAD:

BUDGET OFFICER:

CITY MANAGER:

Print Form

DATE: 10/02/13

DATE: 10/03/13

DATE: 10/3/13

DATE:

\$

RECEIVED

SEP 30 '13

PAVING PETITION

CITY CLERK OFFICE

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

BELLECHASE THIRD ADDITION

Lots 1 – 7, Block 1
Lots 11 – 17, Block 2
Lots 1 – 3, Block 3
Lots 36 – 52, Block 3
Lots 8 – 27, Block 5
Reserve C

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- 472-85078
- (a) That there be constructed pavement on **ROCKY CREEK ROAD**; from the north line of Bellechase to the north line of Lot 7, Block 2, Bellechase Third Addition; **BELLECHASE**; from the south line of Bellechase Third Addition to the westerly line of Lot 8, Block 5, Bellechase Third Addition, including **BELLECHASE CT.**

That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage is to be installed where necessary, and sidewalks to be constructed on one side of all through, non cul-de-sac streets.

- (b) That the estimated and probable cost of the foregoing improvement being Eight Hundred Ninety Two Thousand Dollars (\$892,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at a pro rata of 1 percent per month from and after September 1, 2013.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this

petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

That the following lots and tracts in Bellechase Third Addition, Wichita, Sedgwick County, Kansas shall each pay 1/55 of the total cost of the improvement district:

BELLECHASE THIRD ADDITION

Lots 1 – 7, Block 1
Lots 11 – 17, Block 2
Lots 1 – 3, Block 3
Lots 36 – 52, Block 3
Lots 8 – 27, Block 5
Reserve C

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis or per the provisions of a re-spread agreement submitted to the City of Wichita.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick

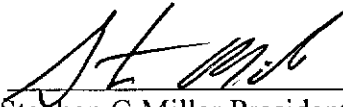
County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
-------------------	-----------	------

BELLECHASE THIRD ADDITION

Lots 1 – 7, Block 1
Lots 11 – 17, Block 2
Lots 1 – 3, Block 3
Lots 36 – 52, Block 3
Lots 8 – 27, Block 5
Reserve C

 9-30-13

Stephen G Miller President
JBC Investments

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief.

Eric Glover

Name

924 N. Main L7203

Address

316 264 8008

Telephone Number

Sworn to and subscribed before me this 30 day of September, 2013



James Edwards
Deputy City Clerk

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Community Events – Say Grace 5K (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure, the event promoter Clark Ensz, Clark Ensz, Inc. is coordinating the Say Grace 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Say Grace 5K November 28, 2013 8:00 am – 12:00 pm

- Emporia Street, 13th Street to 10th Street
- Topeka Street, 13th Street to Elm Street
- 13th Street, Topeka Avenue to Emporia Avenue
- 12th Street, Topeka Avenue to Emporia Avenue
- 11th Street, Topeka Avenue to Emporia Avenue
- 10th Street, Topeka Avenue to Sante Fe Street
- Ninth Street, Topeka Avenue to Sante Fe Street
- Pine Street, Topeka Avenue to Sante Fe Street
- Elm Street, Topeka Avenue to Sante Fe Street
- Sante Fe Street, 10th Street to Ninth Street
- Emporia Circle, Ninth Street to Ninth Street

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the

streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments;
and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Community Events – Food Trucks at the Fountains (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Sharon VanHorn, VanHorn Promotion & Marketing is coordinating Food Trucks at the Fountains with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Food Trucks at the Fountains October 27, 2013 12:00 pm – 3:00 pm

- Water Street, Dewey Street to Waterman Street.

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council

SUBJECT: Community Events – Inspire Hope 8K (District II)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure, the event promoter Clark Enszt, Clark Enszt, Inc. is coordinating the Inspire Hope 8K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Inspire Hope 8K November 9, 2013 2:00 pm – 4:00 pm

- Douglas Avenue, West Parkway to Webb Road
- Linden Street, Douglas Avenue to Sequoia Street
- Sequoia Street, Linden Street to East Parkway
- East Parkway, Sequoia Street to Douglas Parkway
- Douglas Parkway, East Parkway to Cypress Street
- Cypress Street, Douglas Parkway to Sequoia Street

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Community Events – Girls on the Run Fall 5K (District II)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure, the event promoter Clark Ensz, Clark Ensz, Inc. is coordinating the Girls on the Run Fall 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Girls on the Run Fall 5K Sunday November 17, 2013 2:00 pm – 4:00 pm

- Douglas Avenue, West Parkway to Webb Road
- Linden Street, Douglas Avenue to Sequoia Street
- Sequoia Street, Linden Street to East Parkway
- East Parkway, Sequoia Street to Douglas Parkway
- Douglas Parkway, East Parkway to Cypress Street
- Cypress Street, Douglas Parkway to Sequoia Street

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

Financial Consideration: The event promoter is responsible for all costs associated with the special event.

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Partial Acquisition of Land at the Southwest Corner of North Hillside and East 9th Street for the Redbud Multi-Use Path, Interstate 135 to Oliver (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On December 4, 2012, the City Council approved the design concept for the completion of the bicycle/pedestrian path along the abandoned railroad corridor from Murdock and Interstate 135 to 17th Street North and Oliver. The project will require the partial acquisition of four tracts. The property at the southwest corner of North Hillside and East 9th Street is affected. The property is currently vacant and zoned Limited Commercial (LC).

Analysis: The owner rejected the estimated appraised value of \$500, or \$.83 per square foot. After a review of additional sales data, the seller agreed to accept \$1,200, or \$2 per square foot.

Financial Considerations: The funding sources for the project are from both General Obligation Bonds and Federal grants administered by the Kansas Department of Transportation (KDOT). A budget of \$1,700 is requested. This includes \$1,200 for the acquisitions and \$500 for title work, closing costs and other administrative fees.

Legal Considerations: The Law Department has approved the ~~easement~~ *real estate agreement* as to form.

Recommendation/Action: It is recommended that the City Council 1) approve the budget and; 2) accept the easement.

Attachments: Real estate agreement, tract map, and aerial map.

REAL ESTATE AGREEMENT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2013 by and between Dale G Diggs Jr and Corelia M Diggs, husband and wife, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a Warranty Deed for the construction and maintenance of the Redbud Multi-Use Path Right-of-Way and other related infrastructure improvements within, upon and under the following described tract, to wit:

A 6 foot wide tract of land for Right-of-way purposes more fully described as follows:
The East 6 feet of Lots 1, 3, 5, and 7, on Hillside Ave, Frisco Avenue Addition to the City of Wichita, Sedgwick County, Kansas.

2. The Buyer hereby agrees to purchase and pay to the Seller as consideration for the conveyance to Buyer the above described tract the sum of One Thousand Two Hundred Dollars (\$1,200) in the manner following, to-wit: cash at closing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division- for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before October 4, 2013.

6. The Seller further agrees to convey the above described land with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer on or before closing date.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100% by buyer. Buyer will pay 100% closing costs.

9. Site Assessment

A. At any time prior to the closing of this agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the Property. If an environmental audit or test reveals the presence of a hazardous substance or

waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the Property, the buyer shall have the right to void this agreement upon notice to the seller, in which event neither party shall be under any further obligation to the other, with the exception that seller shall return to buyer any deposit made hereunder. The buyer or its agents shall have the right, without the obligation, to enter upon the Property prior to closing to undertake an environmental site assessment or testing of the Property, at the buyer's sole expense.

B. Provided, however, buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. The buyer shall, if buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Dale G Diggs Jr

Corelia M Diggs

BUYER:

By Direction of the City Council

ATTEST:

Carl Brewer, Mayor

Karen Sublett, City Clerk

Approved as to Form:

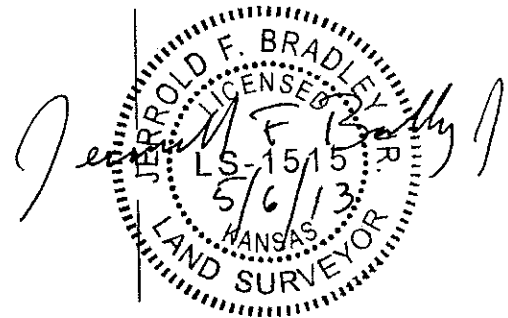
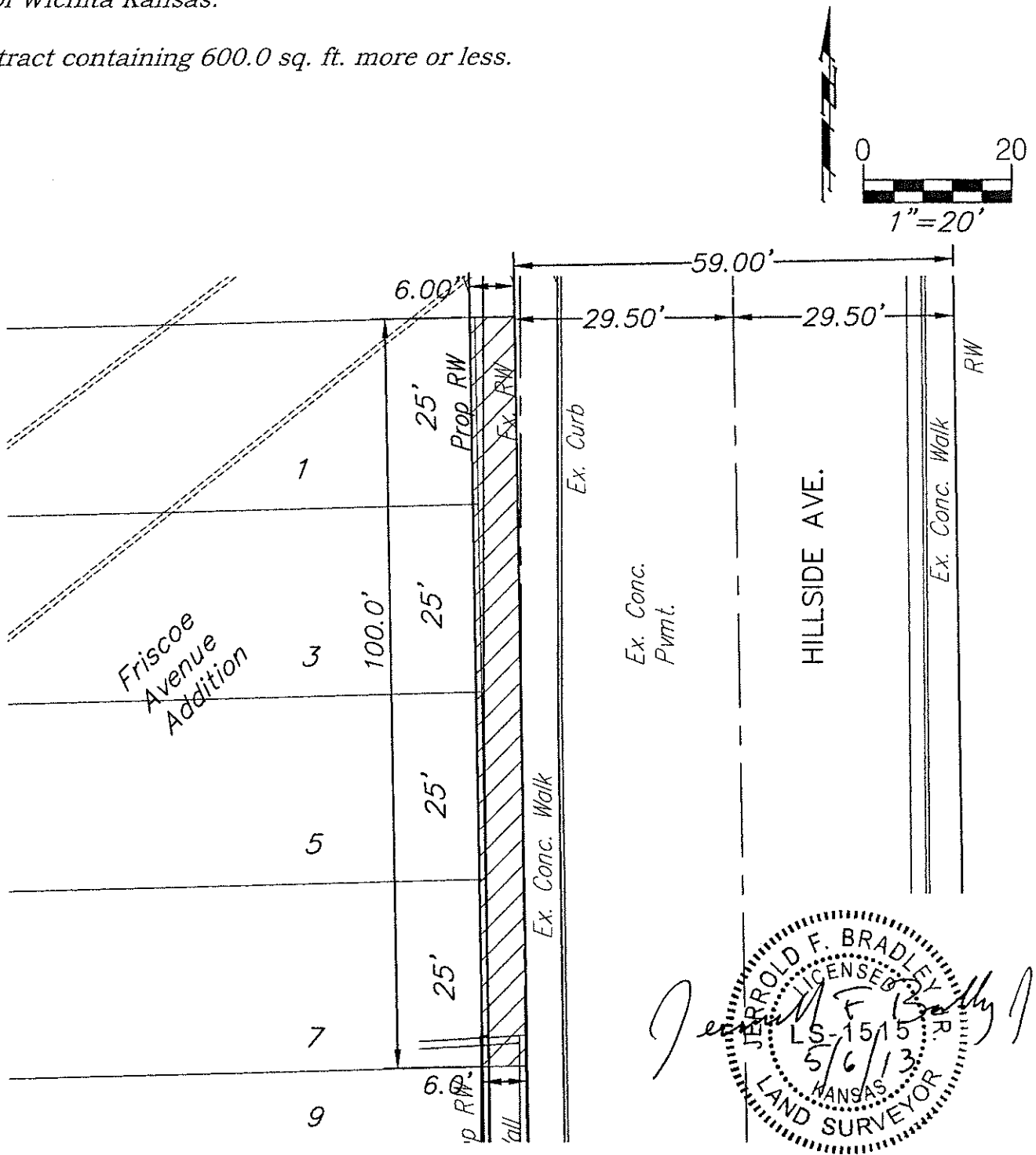
Gary E. Rebenstorf, Director of Law

Redbud Bike Exhibit

LEGAL DESCRIPTION:

A six (6) foot wide tract of land for Right of Way purposes more fully described as follows:
The east 6.00 feet of Lots 1, 3, 5, and 7, on Hillside Ave., Frisco Avenue Addition to the
City of Wichita Kansas.

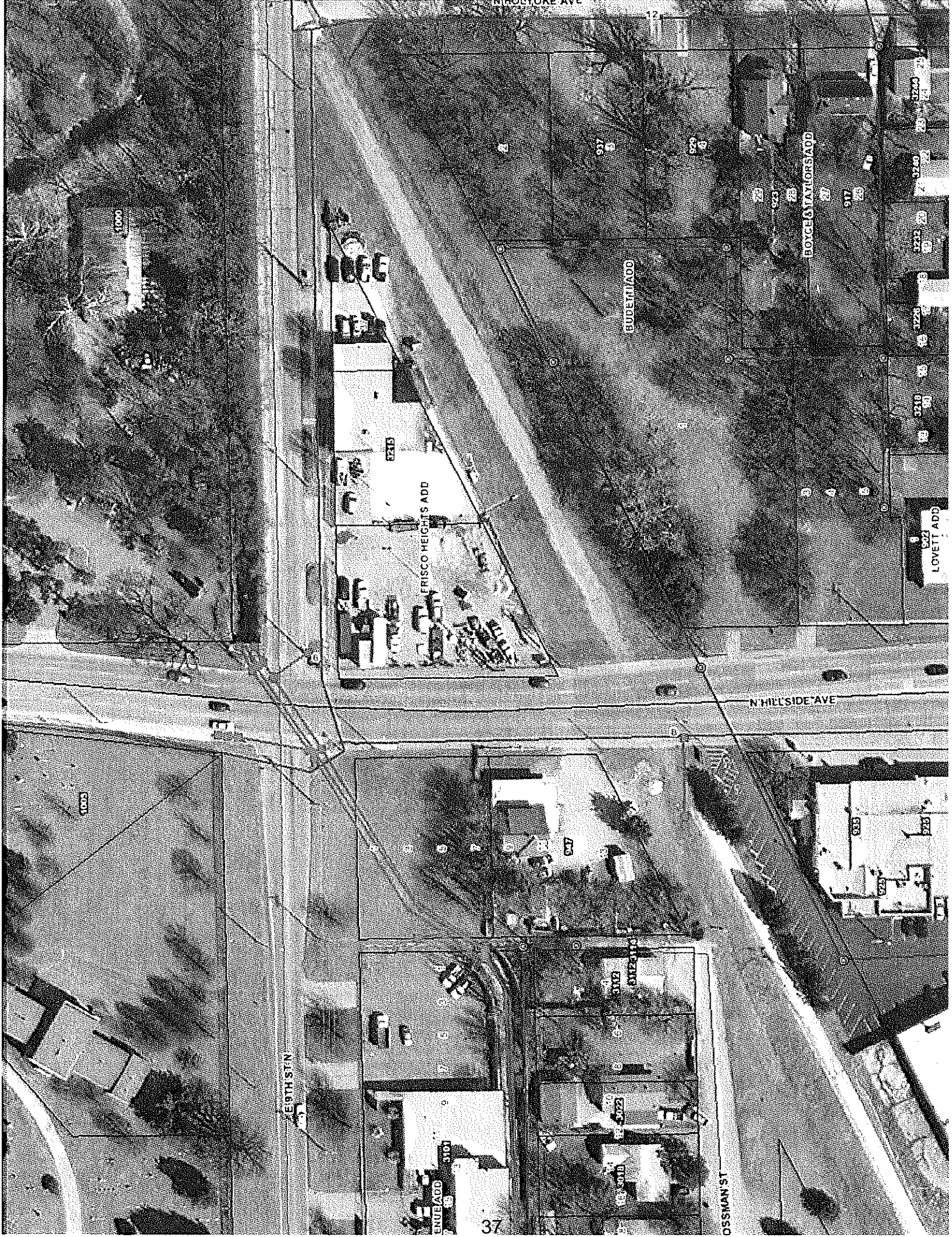
Said tract containing 600.0 sq. ft. more or less.



Owner:
DIGGS DALE G JR & CORELIA M
3101 E 9TH ST
WICHITA, KS 67214-3253

E:\Projects\Redbud Bike Path/Base/RW Exhibits

 **Baughman Company, P.A.**
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE



CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Acquisition of 10929 East Kellogg for the Improvement of the Kellogg Avenue (US Highway 54) from Cypress to Chateau (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On February 8, 2011, the City Council approved the design for the improvement of Kellogg Avenue (US Highway 54) from Cypress to Chateau. The project calls for the improvement of Kellogg to a six lane, limited access highway with one way frontage roads on each side of the highway and interchanges at the intersections of Webb Road and the Kansas Turnpike (Interstate Highway 35). The project will require the acquisition of all or part of approximately 32 parcels. The properties consist of a mix of retail and commercial uses. The property located at 10929 East Kellogg has 69,055 square feet, is zoned general commercial and is improved with a 12,980 square foot masonry retail structure. The project requires 12,791 square feet of the site and eliminates virtually all of the parking, necessitating the acquisition of the entire site.

Analysis: The acquisition was appraised at \$985,000. The owner rejected an offer of this amount. The appraisal valued the site at \$10.25 per square foot. Subsequent to the appraisal, the site immediately east sold for \$13.82 per square foot. Additionally, with the improvement in the market, capitalization rates are lower than what was utilized in the appraisal. Based on these items, the owner has agreed to accept \$1,400,000 for the property. This amount includes all relocation that the owner was entitled to. The owner will also have an option to purchase that portion of the property not required for the road project for \$300,000 after construction. The property is currently leased to a retail business and that business will be entitled to relocation payments.

Financial Considerations: A budget of \$1,512,000 is requested. This includes \$1,400,000 for the acquisition, \$100,000 for relocation, \$10,000 for demolition and \$2,000 for the closing costs and other administrative costs. The funding source is Local Sales Tax (LST) and, State and Federal grant funds administered by the Kansas Department of Transportation.

Legal Considerations: The Law Department has approved the real estate agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) approve the budget; 2) approve the real estate purchase agreement; and 3) authorize the necessary signatures.

Attachments: Aerial map, tract map, and real estate purchase agreement.

LEGEND

— Exist. Right-of-Way

— Right-of-Way

— Perm. Easement



Improvement



Exist. Access Control



Access Control



Temp. Easement



EXHIBIT

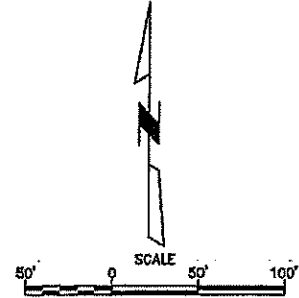
Tract # 55
C-36252



EXHIBIT

RIGHT OF WAY ACQUISITION

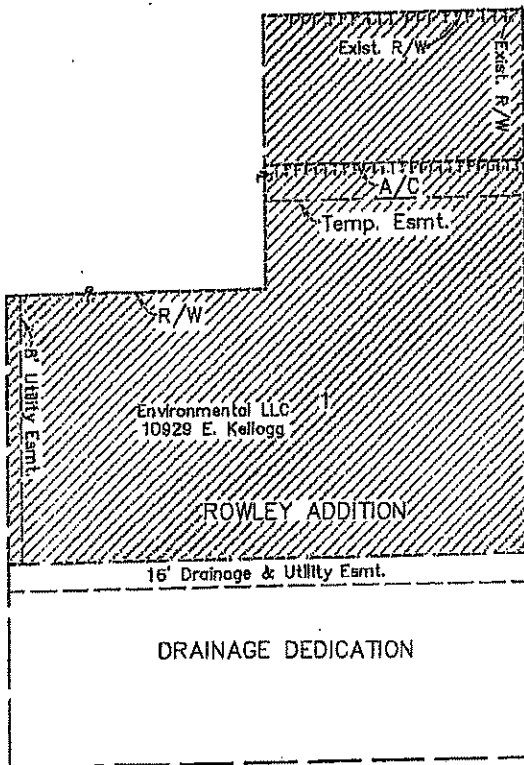
Tract # 55-A
C-36252



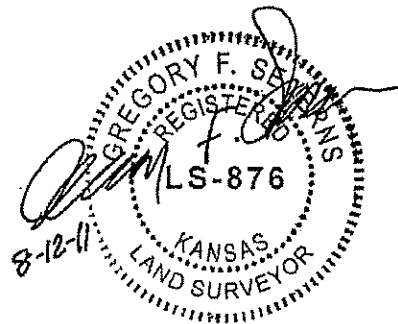
Kellogg Avenue (US 54)
Sec. Line

LEGAL DESCRIPTION:

All of Lot 1, Rowley Addition to Wichita, Kansas.
Containing 69055.4 Sq. Ft., (calculated)



TRIG AVENUE



8-12-11

Project Number 10-07-E517
E:eng/East Kellogg/Exhibits/Tract 55-A.dwg

Baughman **Baughman Company, P.A.**
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

PROJECT: East Kellogg DATE: _____
COUNTY: Sedgwick TRACT NO.: 55

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE
OF REAL ESTATE BY SPECIAL WARRANTY DEED

THIS AGREEMENT Made and entered into this _____ day of _____, 2013, by and between Environmental LLC, "Landowner", and the City of Wichita, State of Kansas, "City"

WITNESSETH, For consideration as hereinafter set forth, Landowner hereby agrees to convey title to City by Special Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

Lot 1, Rowley Addition to the City of Wichita, Sedgwick county, Kansas ("Property")

The foregoing Property shall be conveyed to City subject to all easements, restrictions, rights of way and other matters of record, but free and clear of any mortgages or liens.

The parties hereto acknowledge and agree that the Property does not include the drainage area dedicated to the public in the plat of the Rowley Addition. In the event that Landowner acquires the Option Parcel (as defined below), the City covenants and agrees that it will not unreasonably withhold its consent to the use of such drainage dedication by Landowner (or its successors and assigns) for parking purposes, and agrees to provide an easement for such use of the drainage dedication in favor of Landowner (or its successors and assigns), provided that such use does not unreasonably interfere with the use of such drainage dedication for drainage purposes. The provisions of this paragraph shall survive the closing on the sale of the Property to the City.

Additionally, in the event Landowner acquires the Option Parcel, the City shall either (i) deed any rights it has to the drainage area located to the south of Lot 1, Block 1 Holsted Addition to the City of Wichita, Sedgwick County, Kansas (which the City acquired from Carport, LLC, an entity affiliated with Landowner), and in such event the City agrees that it will not unreasonably withhold its consent to the use of such drainage dedication by Landowner (or its successors and assigns) for parking purposes; or (ii) grant to Landowner an easement for the use of such drainage area for parking purposes, so long as such parking use does not unreasonably interfere with the use of such drainage area for drainage purposes. The provisions of this paragraph shall survive the closing on the sale of the Property to the City.

It is understood and agreed that Landowner is responsible for all property taxes on the above described Property accrued prior to the conveyance of title to City. Landowner hereby expressly agrees and covenants that they will hold and save harmless and indemnify City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time City becomes legally entitled to the Property and the date of City is given possession. In no event will Landowner be

required to move until City becomes legally entitled to the Property.

City agrees to purchase the above described real estate, and to pay therefore, the following amount to Landowner on or before November 30, 2013.

The City acknowledges that Landowner has a lease of the Property which is in effect as of the date of this Agreement. Landowner shall be allowed to remain in possession, and to keep the Lease in effect, until January 31, 2014. During said possession period, the Landowner shall have the right to any rental income from the Property and shall be responsible for all taxes, insurance, and other costs associated with the Property during said period. The provisions of this paragraph shall survive the closing on the sale of the Property to the City and the recording of the Special Warranty Deed conveying the Property to the City.

At the Closing, the City shall grant to Landowner an option ("Option") to repurchase that portion of said Lot 1, Rowley Addition not required for either right-of-way for the highway project or the actual construction of the highway project, as preliminarily shown and defined on Exhibit A attached hereto and incorporated by this reference herein ("Option Parcel"). The final description of the Option Parcel shall be determined upon development and of approval of final construction plans, and such final description shall contain a certification as to the total square footage of the Option Parcel. The option price shall be equal to Five Dollars and Thirty-three cents (\$5.33) per square foot of ground contained within the Option Parcel, which based on the current plans and size of the Option Parcel as set forth on Exhibit A hereto, would be Three Hundred Thousand Dollars and Zero Cents (\$300,000.00). Said Option shall have a term of six (6) years and shall be exercisable at anytime after the first to occur of the following: (i) the commencement of construction of the highway project (as used herein, the phrase "commencement of construction" shall be deemed to have occurred at such time as any materials necessary for the construction of the project have been delivered to any portion of the project area); or (ii) the City determines that it no longer needs the Option Parcel for the project. The City shall provide prompt written notice to Landowner that the first to occur of the foregoing items has occurred. At any time after the Option is exercisable, Landowner may provide written notice to the City that it is exercising the Option ("Exercise Notice"). Closing shall occur within thirty (30) days of the date of said Exercise Notice. The City and Landowner agree to execute and file of record a memorandum of such Option evidencing the existence of such Option on the Option Parcel. The provisions of this paragraph shall survive the closing on the sale of the Property to the City.

If Landowner exercises the Option above, Landowner agrees to grant access over the Option Parcel from the land owned by the City immediately adjacent to the Option Parcel on the west side thereof, to Trig Street adjacent to the Option Parcel on the east side thereof. Said access shall be evidenced by a cross lot access easement to be negotiated and executed by Landowner and City prior to closing on the Option Parcel.

All real estate taxes shall be prorated at closing on the sale of the Property to the City.
All closing fees and recording fees are to be paid by City.

Approximately <u>69,055</u>	Sq. Ft. for Right of Way
Approximately <u>None</u>	Sq. Ft. for Permanent Easement
Approximately <u>None</u>	Sq. Ft. for Temporary Easement
Access control	

TOTAL: \$ \$1,400,000.00

The price above is in full satisfaction of all claims that Landowner may assert pursuant to

the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C.A. 4601, et. Seq. as well as any claim Landowner may have pursuant to the eminent domain action in Case No. 13 CV0906. Landowner shall be responsible for removal of all of Landowner's personal property from the subject Property prior to the end of the possession period. Any of Landowner's personal property remaining in or upon said Property shall be considered abandoned and City may dispose of any remaining property in any way it deems without further compensation to Landowner. The City acknowledges that it is dealing with the tenant of the Property separately from Landowner with respect to any compensation, including, without limitation, any moving/relocation expenses such tenant may be entitled to, with respect to the City's acquisition of the Property.

It is understood and agreed that the above stated consideration for said Property is in full payment of said Property and all Landowner's damages arising from the transfer of said Property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNER:
Environmental, LLC

By: Paul Treadwell
Paul Treadwell, Member

By: _____

THE CITY OF WICHITA

ATTEST:

By: _____
Carl Brewer, Mayor

By: _____
Karen Sublett, City Clerk

APPROVED TO FORM:

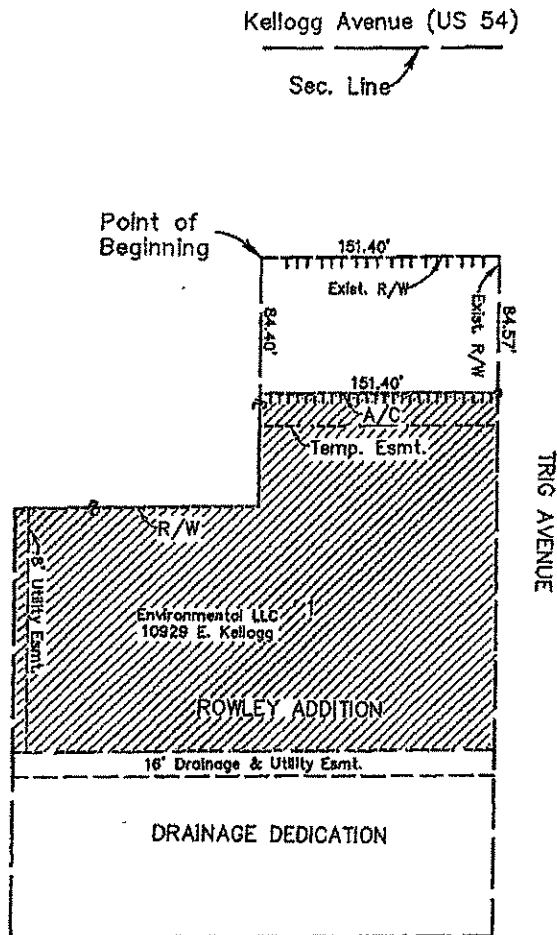
Gary E. Rebenstorf, Director of Law

EXHIBIT A
Legal Description of Option Parcel

LEGAL DESCRIPTION:

Lot 1, Rowley Addition to Wichita, Kansas, EXCEPT that part of said Lot 1 described as follows: Beginning at the most northerly northwest corner of said Lot 1; thence easterly along the north line of said Lot 1, 151.40 feet to the northeast corner of said Lot 1; thence southerly along the east line of said Lot 1, 84.57 feet; thence westerly, 151.40 feet to a point on the most northerly segment of the west line of said Lot 1, said point being 84.40 feet south of the most northerly northwest corner of said Lot 1; thence northerly along the most northerly segment of the west line of said Lot 1, 84.40 feet to the point of beginning.

Containing 56264.7 Sq. Ft., (calculated)



CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Acquisition of 650 South Webb for the Improvement of Kellogg Avenue (US Highway 54) from Cypress to Chateau (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On February 8, 2011, the City Council approved the design for the improvement of Kellogg Avenue (US Highway 54) from Cypress to Chateau. The project calls for the improvement of Kellogg to a six lane, limited access highway, with one way frontage roads on each side of the highway and interchanges at the intersections of Webb Road and the Kansas Turnpike (Interstate Highway 35). The project will require the acquisition of all or part of approximately 32 parcels. The properties consist of a mix of retail and commercial uses. The property located at 650 South Webb Road contains 122,404 square feet, is zoned General Commercial, and is improved with an 18,540 square foot auto repair facility and covered parking structures. The project requires the west 40 feet of the site, totaling 10,471.1 square feet but does not impact the improvements.

Analysis: The acquisition was appraised at \$68,677. The owner rejected this offer and secured his own appraisal. His appraisal valued the acquisition at \$500,000. The acquisition will cause the access to the property to be relocated from the west side of the property to the east side of the property. The City's appraisal did not fully take into account the amount of reorientation of improvements that will be required to adjust for this change. The owner's appraiser took the cost of reorientation into account but also assumed that the overall value of the property would be reduced, even after reorientation, due to the change in access. After review and negotiation, the owner agreed to accept \$285,000. This amount includes all costs to reorient the site plus any relocation that the owner might be entitled to. This tract had been included in the ongoing eminent domain action for properties needed for the project. Upon approval and closing, this tract will be removed from the action.

Financial Considerations: A budget of \$287,000 is requested. This includes \$285,000 for the acquisition and \$2,000 for closing costs and other administrative costs. The funding source is Local Sales Tax (LST) together with State and Federal grant funds administered by the Kansas Department of Transportation.

Legal Considerations: The Law Department has approved the real estate agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) approve the Budget; 2) approve the Real Estate Purchase Agreement; and 3) authorize the necessary signatures.

Attachments: Aerial map, tract maps, and real estate purchase agreement.

PROJECT: Kellogg Improvement – Cypress to Chateau DATE:

COUNTY: Sedgwick

TRACT NO.: 25

CITY OF WICHITA, KANSAS
A MUNICIPAL CORPORATION

CONTRACT FOR CONVEYANCE
OF REAL ESTATE BY WARRANTY DEED
AND TEMPORARY EASEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 2013 by and between:

Michael E. Steven, "Landowner(s)", and the City of Wichita, State of Kansas, "City"

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

See Exhibits Tract # 25-C RIGHT OF WAY ACQUISITION, and Tract # 25-AC ACCESS CONTROL

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property until the relocation is completed. In no event will the Landowner be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, below described amount on or before November 30, 2013.

Landowner acknowledges that the City has initiated condemnation of Landowner's property through its power of eminent domain and City shall not release Landowner from said action until the transaction herein has closed. If it is necessary to inform the court appointed appraisers in said condemnation action of the agreed consideration of this transaction, Landowner agrees the consideration tendered pursuant to this purchase agreement is the amount due Landowner as just compensation in condemnation and Landowner shall join the City in supporting and requesting this sum in the underlying condemnation action.

Landowner shall remove all personal property prior to surrender of possession and this includes all slat wallboards and signs both inside and outside. Any personal property remaining in or upon said property after closing shall be considered abandoned. The City may dispose of any remaining personal property in any way it deems without further compensation to Landowner.

All taxes, etc. shall be prorated at closing. All closing fees and costs are to be paid by the City.

Real property to be acquired as right of way:

Approximately 12,040.8 Sq. Ft. and all improvements there to	\$285,000.00
All relocation benefits pursuant to 49 CFR Part 24	<u>Included above</u>
TOTAL	\$285,000.00

The price above is in full satisfaction of all claims that Landowner may assert pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, 42 U.S.C.A. 4601, et. Seq. as well as any claim pursuant to the eminent domain action in Case No. 13 CV0906. Landowner shall be responsible for removal of all personal property from the subject property prior to the end of the possession period. Any personal property remaining in or upon said property shall be considered abandoned and City may dispose of any remaining property in any way it deems without further compensation to Landowner.

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNER:

Michael E. Steven

BUYER:

City of Wichita, KS, a municipal corporation

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, Director of Law

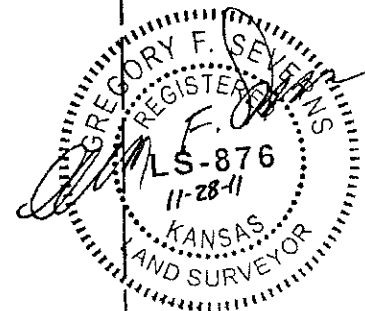
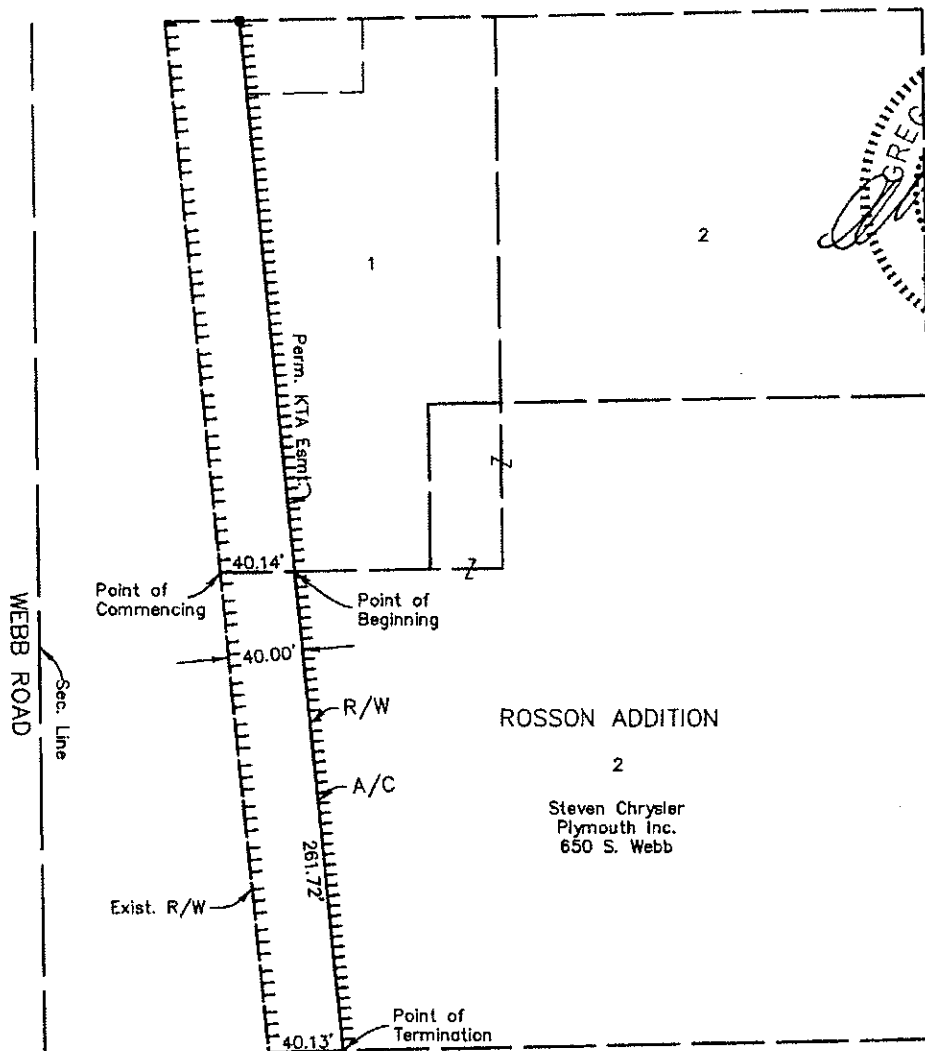
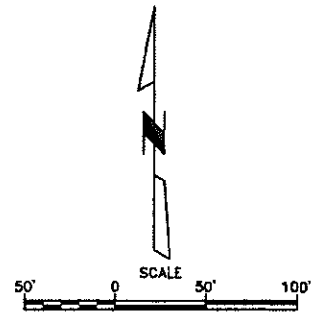
EXHIBIT

ACCESS CONTROL

Tract # 25-AC

LEGAL DESCRIPTION:

Complete Access Control over a line in Lot 2, Rosson Addition, Wichita, Sedgwick County, Kansas, said line being described as follows: Commencing at the west corner common to said Lot 2 and Lot 1 in said Rosson Addition; thence east along the south line of said Lot 1, 40.14 feet to a point 40.00 feet normally distant east of the west line of said Lot 2, and for a point of beginning; thence southerly parallel with the west line of said Lot 2, 261.72 feet to a point on the south line of said Lot 2, said point being 40.13 feet east of the southwest corner of said Lot 2, and for a point of termination.



11-28-11

Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 25-AC.dwg

Baughman Company, P.A.
 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

EXHIBIT

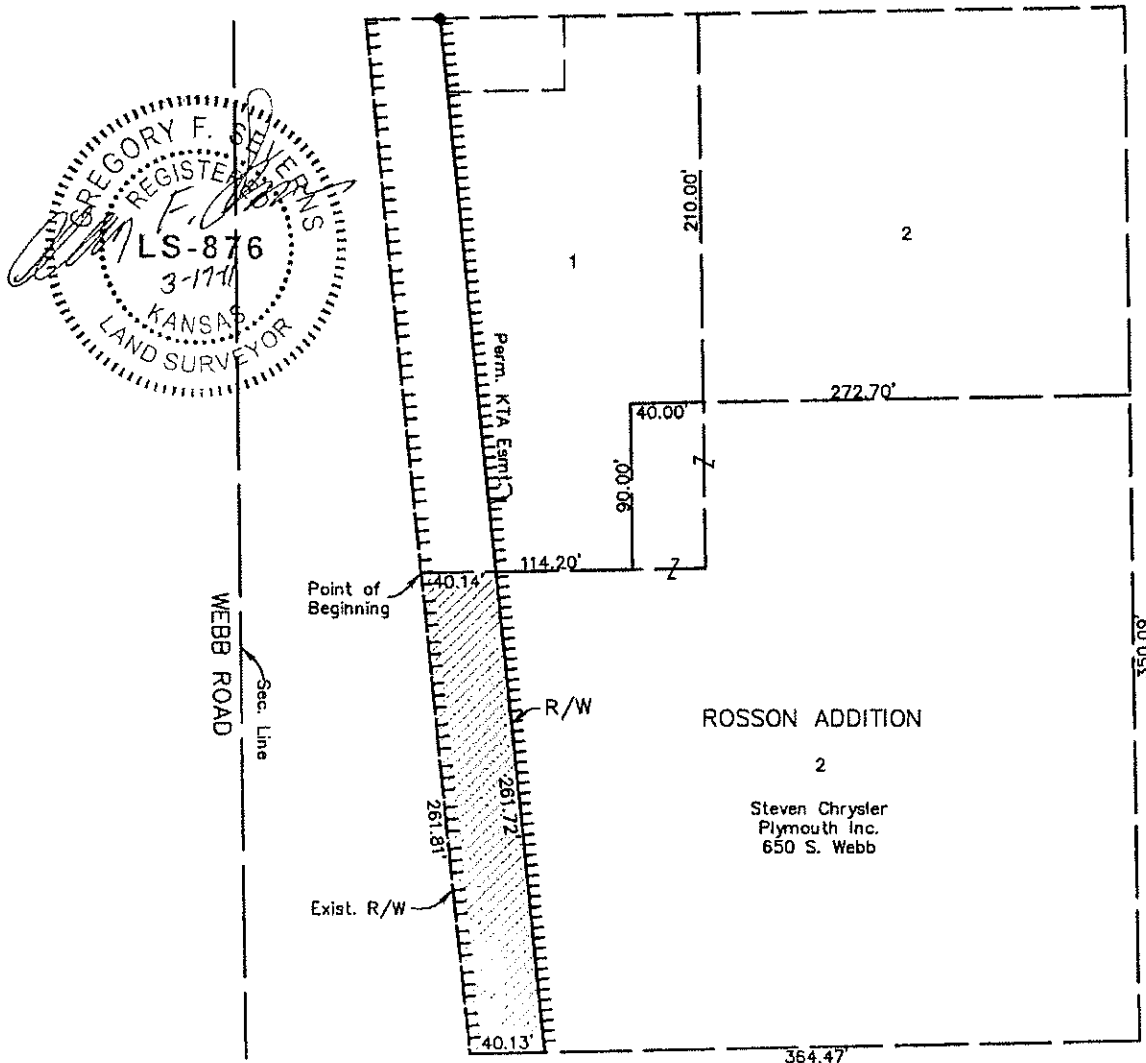
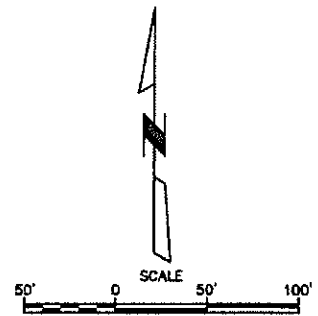
RIGHT OF WAY ACQUISITION

Tract # 25-C

LEGAL DESCRIPTION:

That part of Lot 2, Rosson Addition, Wichita, Sedgwick County, Kansas described as follows:
Beginning at the west corner common to said Lot 2 and Lot 1 in said Rosson Addition; thence east along the south line of said Lot 1, 40.14 feet to a point 40.00 feet normally distant east of the west line of said Lot 2; thence southerly parallel with the west line of said Lot 2, 261.72 feet to a point on the south line of said Lot 2; thence west along the south line of said Lot 2, 40.13 feet to the southwest corner of said Lot 2; thence northerly along the west line of said Lot 2, 261.81 feet to the point of beginning.

Containing 10471.1 Sq. Ft., (calculated)



3-17-11

Project Number 10-07-E517

E:eng/East Kellogg/Exhibits/Tract 25-C.dwg

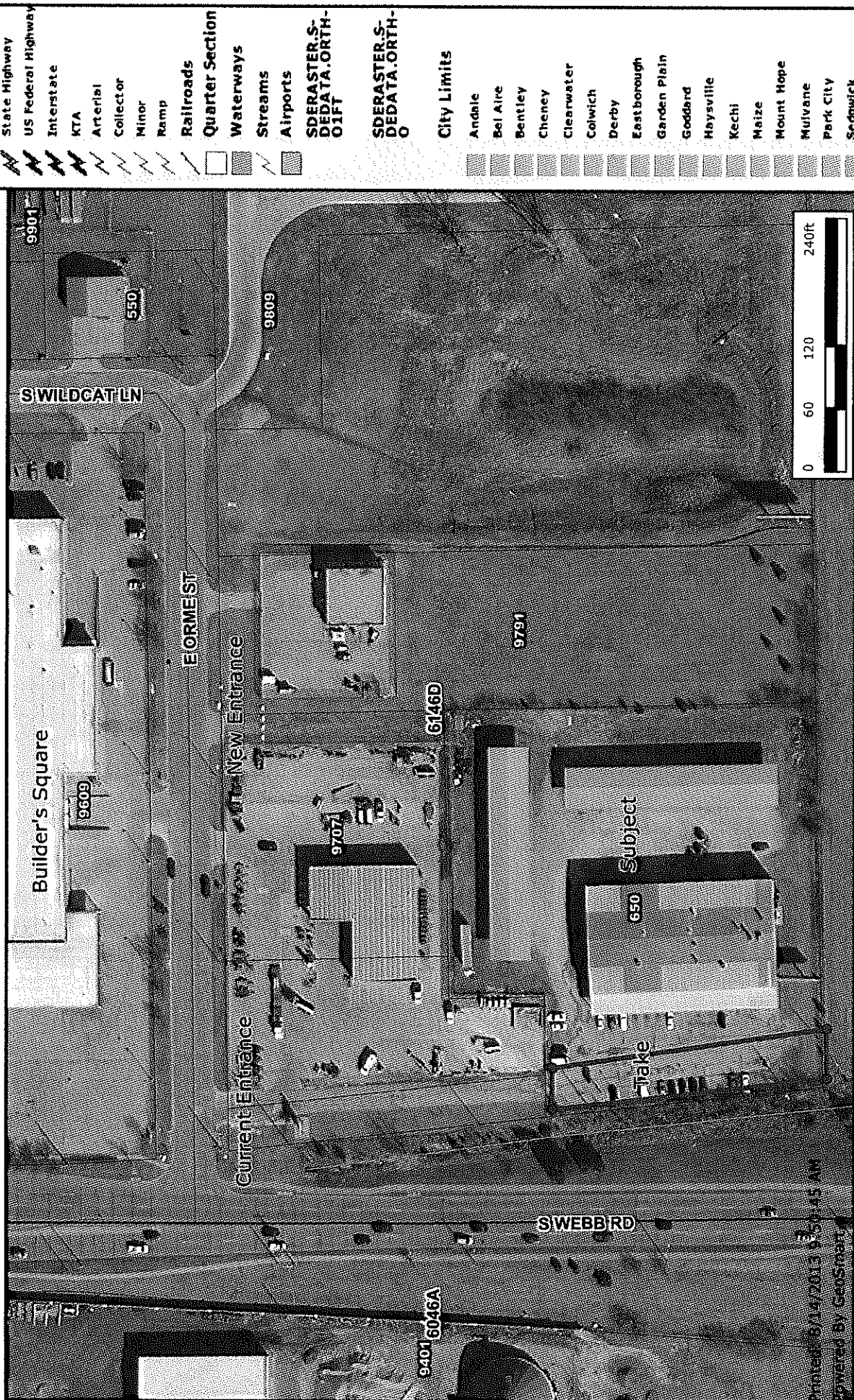
Baughman Company, P.A.

315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149

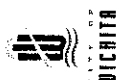
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE



Tract 25 - Steven Chrysler



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CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1721 West 27th Street North for the Amidon, 21st Street North to 29th Street North Improvement Project (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On March 20, 2012, the City Council approved the design concept to improve Amidon Street between 21st Street North and 29th Street North. The project will require a partial acquisition of 30 properties together with the full taking of two additional properties. The tracts within the project corridor consist of commercial and residential. The proposed road improvement project includes widening Amidon to provide a continuous center turn lane, and the intersections at 21st Street, 25th Street and 29th Street will be reconstructed. The proposed partial acquisition of 1721 West 27th Street North consists of 670 square feet for road right-of-way. The right-of-way taking is a five foot wide strip of land adjacent to Amidon. An additional 940 square feet will be utilized for a temporary easement. The improvements will not be affected by the proposed project. The project will require the removal of a row of trees along the front of the property as well as a property fence.

Analysis: The proposed acquisition was valued at \$600 (\$.90 per square foot) for the right-of-way. An additional \$8,900 was allocated for the removal of trees and fencing and the temporary easement. This amount was offered to the owner. The owner rejected the offer as he felt the value of the trees and fencing had been undervalued. The owner agreed to accept \$12,500 based on additional analysis of values.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of \$13,000 is requested. This includes \$12,500 for the acquisition and \$500 for title work, closing costs and other administrative fees.

Legal Considerations: The Law Department has approved the real estate agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) approve the real estate agreement; 2) approve the budget; and 3) authorize the necessary signatures.

Attachments: Real estate agreement, tract map and aerial map.

PROJECT: Amidon Avenue DATE: August 10, 2013
COUNTY: Sedgwick TRACT NO.: 0013

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE
OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY
EASEMENT

THIS AGREEMENT Made and entered into this 2nd day of October, 2013,
by and between

Joann Harder

3160 N Westwind Bay St Wichita, KS 67205
(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Real property to be acquired as right of way:		
670	(Sq. Ft.)	\$ 600.00
Damages Including but not limited to:		
Landscaping, trees and fencing		\$ 11,800.00
Temporary Easement for construction:		
940	(Sq. Ft.)	\$ 100.00
Permanent Drainage Easement for construction:		
N/A	(Sq. Ft.)	\$ N/A

Improvement & Buildings acquired with right of way:
N/A

TOTAL: \$ 12,500.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Joann Harder By: _____
Joann Harder

THE CITY OF WICHITA

ATTEST:

By: _____ By: _____
Carl Brewer, Mayor Karen Sublett, City Clerk

MEMORANDA

Exact and full name of owner, as name appears of record:

Joann Harder
If mortgage or other liens, show names of holders:
None

REMARKS:

PIN/APN 00114172
Security Title File Number 2068374

APPROVED TO FORM:

Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:




Gerald Cain
Gerald Cain, Project Manager

RIGHT OF WAY EXHIBIT

1/21 W 27TH. N.
WICHITA KS 67204-5062

A 14118

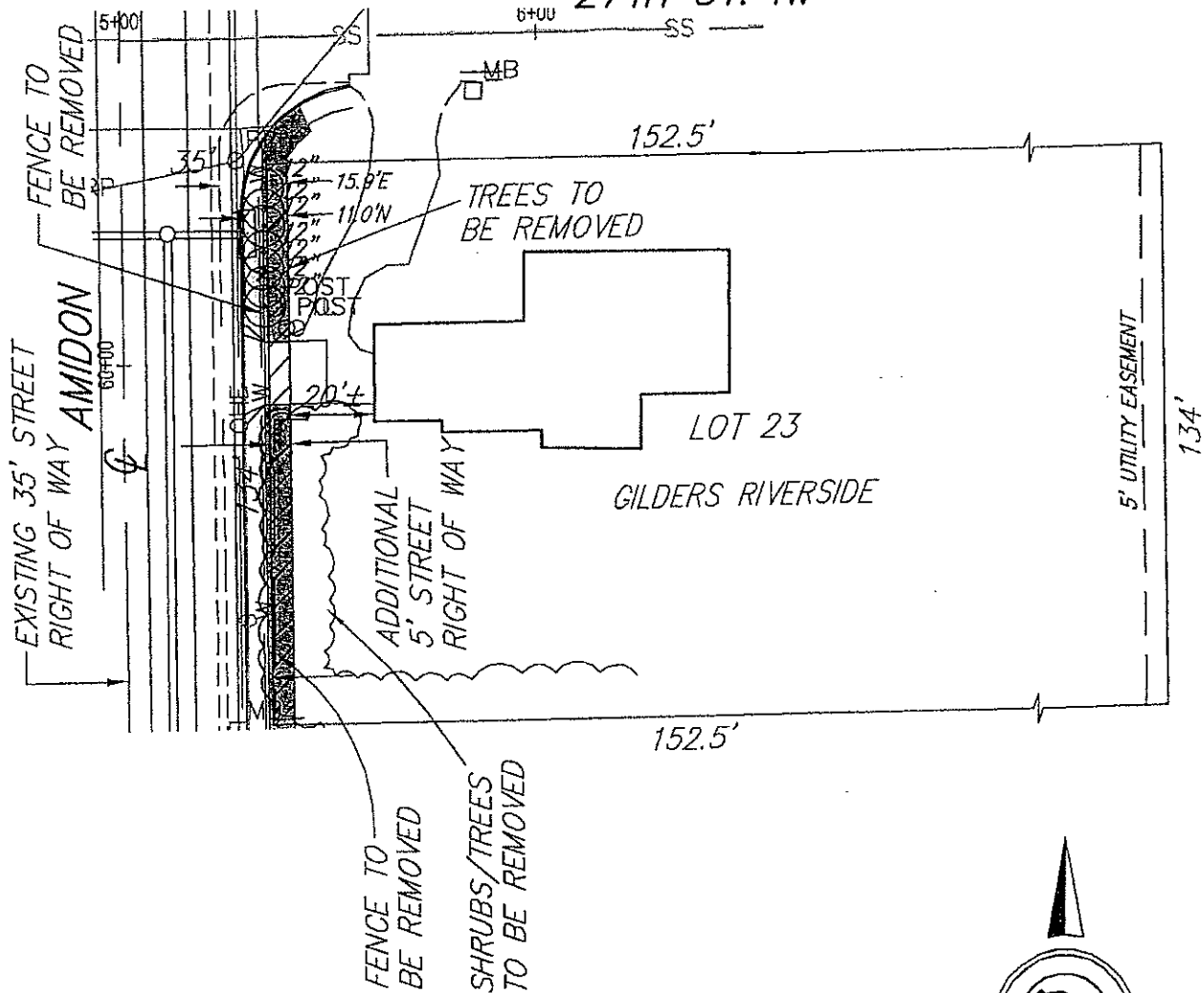
Right Of Way Area: 670 Sq. Ft.±
0.02 Acres±

 = BRICK
 = PROPOSED SIDEWALK
 = PROPOSED STREET RIGHT OF WAY

(DISTANCE)_E = EXISTING CURB TO NEW PROPERTY LINE

(DISTANCE)_N = NEW CURB TO NEW PROPERTY LINE

27TH ST. N.

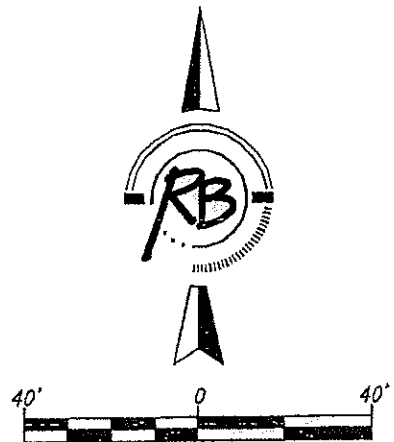


Ruggles & Bohm, P.A.

Engineering, Surveying, Land Planning

924 North Main
Wichita, Kansas 67203
www.rbkansas.com




(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com



TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

1721 W 27TH. N.
WICHITA KS 67204-5062

A 14118

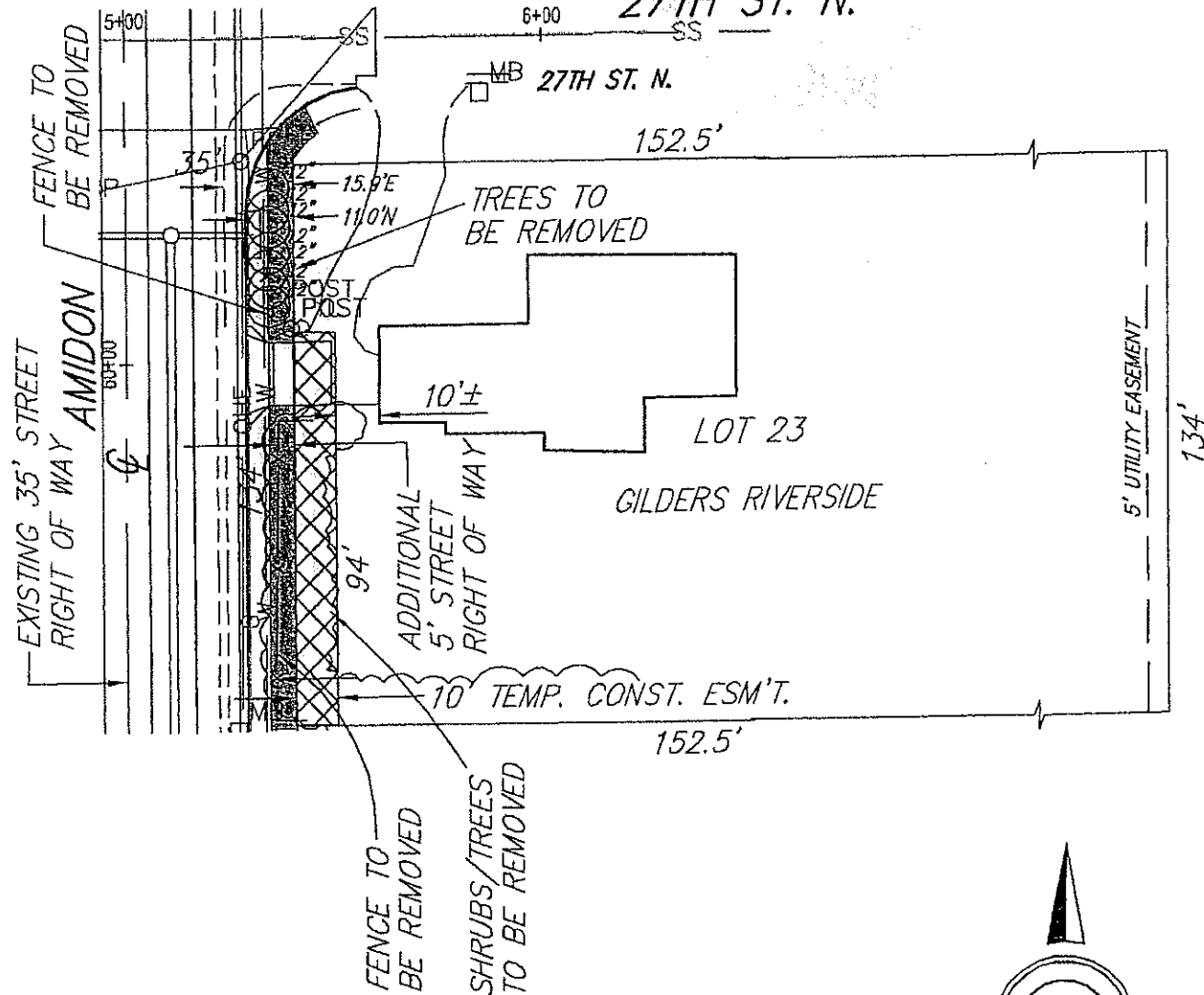
-  = BRICK
-  = PROPOSED SIDEWALK
-  = PROPOSED TEMPORARY CONSTRUCTION EASEMENT

(DISTANCE)E = EXISTING CURB TO NEW PROPERTY LINE

(DISTANCE)N = NEW CURB TO NEW PROPERTY LINE

Easement Area: 940 Sq. Ft.±
0.02 Acres±

27TH ST. N.



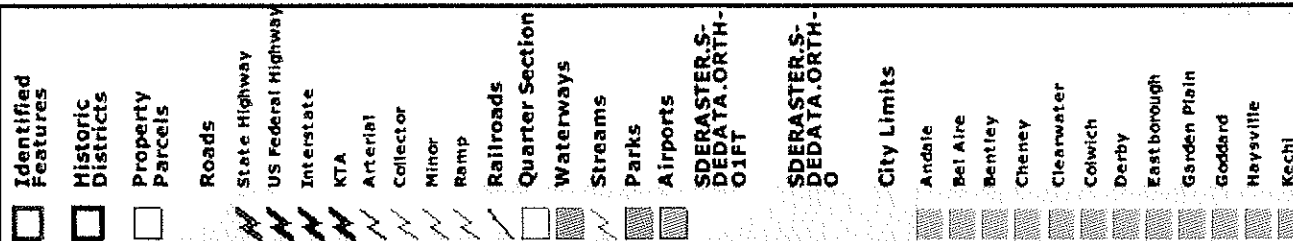
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3647T



CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 2902 North Amidon for the Amidon, 21st Street North to 29th Street North Improvement Project (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On March 20, 2012, the City Council approved the design concept to improve Amidon Street between 21st Street North and 29th Street North. The project will require a partial acquisition of 30 properties together with the full taking of two additional properties. The tracts within the project corridor consist of commercial and residential. The proposed road improvement project includes widening Amidon to provide a continuous center turn lane, and the intersections at 21st Street, 25th Street and 29th Street will be reconstructed. The proposed partial acquisition of 2902 North Amidon consists of 717 square feet for road right-of-way. The right-of-way taking is a ten foot wide strip of land adjacent to Amidon. An additional 100 square feet will be utilized for a temporary easement to rebuild the property driveway. The improvements will not be affected by the proposed project. The project will require the removal of mature trees in front of the house.

Analysis: The proposed acquisition was valued at \$900 (\$1.25 per square foot) for the right-of-way. An additional \$100 was allocated for the temporary easement. The offer was increased \$2,000 when it was learned of the impact of the project on the site trees. This amount, \$3,000, was offered to the owner and accepted.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of \$3,500 is requested. This includes \$3,000 for the acquisition and \$500 for title work, closing costs and other administrative fees.

Legal Considerations: The Law Department has approved the real estate agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) approve the real estate agreement; 2) approve the budget; and 3) authorize the necessary signatures.

Attachments: Real estate agreement, tract map and aerial map.

PROJECT: Amidon Avenue DATE: September 3, 2013
COUNTY: Sedgwick TRACT NO.: 21

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE
OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY
EASEMENT

THIS AGREEMENT Made and entered into this _____ day of _____, 2013,
by and between

Mitchell L. Smith

2902 N Amidon Avenue, Wichita, KS 67204

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

ROW Deed: The west 10 feet of Lot 11, EXCEPT the north 105 feet, TOGETHER WITH the west 10 feet of Lot 12, EXCEPT the south 140 feet, Gilders Court, Sedgwick County, Kansas

Temporary Easement: The south 20 feet of the north 125 feet of the east 5 feet of the west 15 feet of Lot 11, Gilders Court, Sedgwick County, Kansas.

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Real property to be acquired as right of way:
717 (Sq. Ft.)

\$ 2,900 mls

Damages:

\$ N/A

Temporary Easement for construction:

100 (Sq. Ft.)

\$ 100

Permanent Drainage Easement for construction:

N/A (Sq. Ft.)

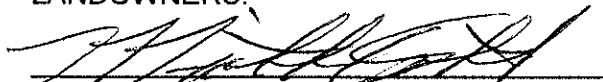
\$ N/A

TOTAL: \$ 3000.00 ~~2000~~ 7749

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:



Mitchell L. Smith

THE CITY OF WICHITA, KS

ATTEST:

Carl Brewer, Mayor

Karen Sublett, City Clerk

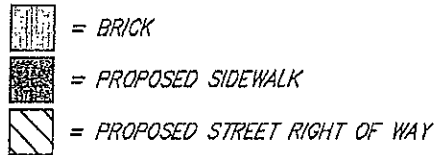
APPROVED TO FORM:

Gary E. Rebenstorf, Director of Law

RIGHT OF WAY EXHIBIT

SMITH MITCHELL L
2902 AMIDON
WICHITA KS 67204-4908

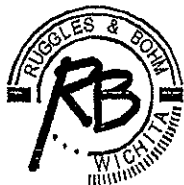
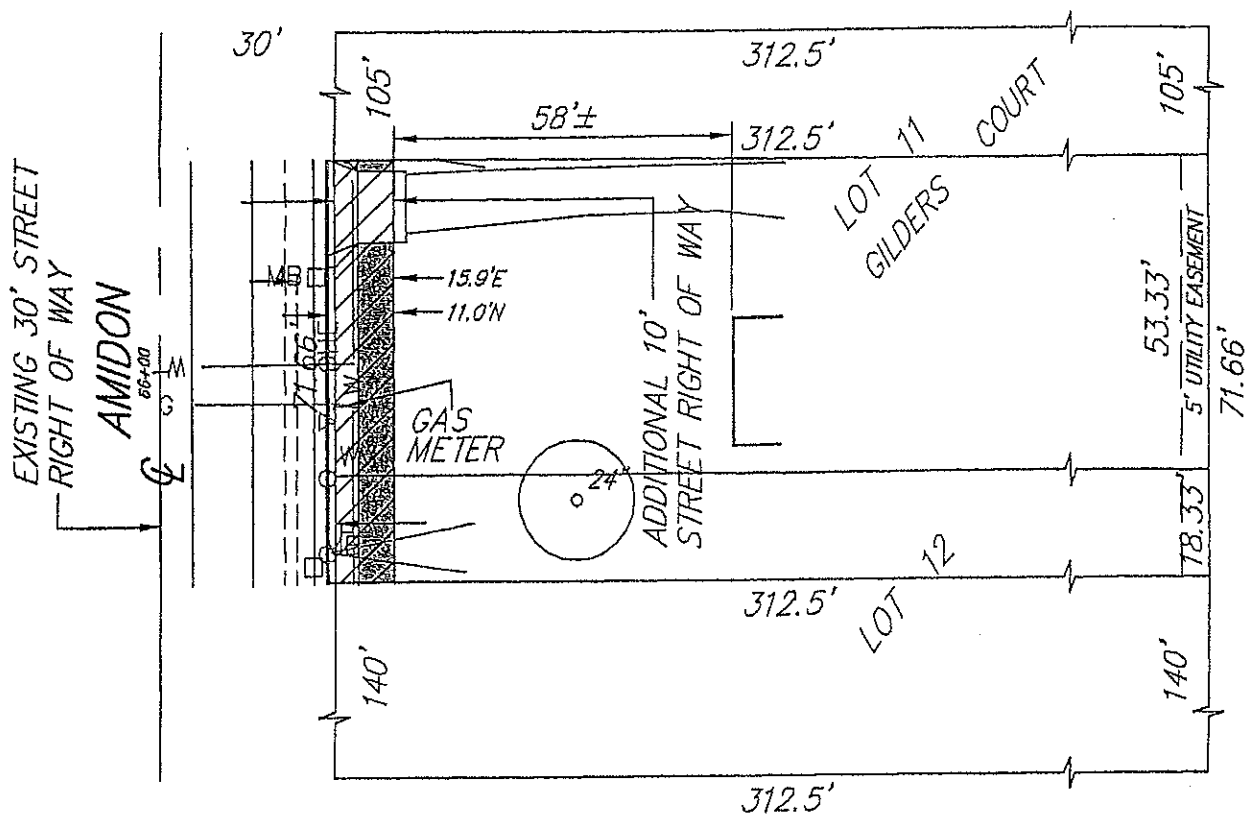
A 14027



(DISTANCE)E = EXISTING CURB TO NEW PROPERTY LINE

Right Of Way Area: 717 Sq. Ft.±
0.02 Acres±

(DISTANCE)N = NEW CURB TO NEW PROPERTY LINE



Ruggles & Bohm, P.A.

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E-mail: info@rbkansas.com

3647T

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

SMITH MITCHELL L
2902 AMIDON
WICHITA KS 67204-4908

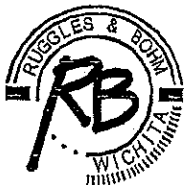
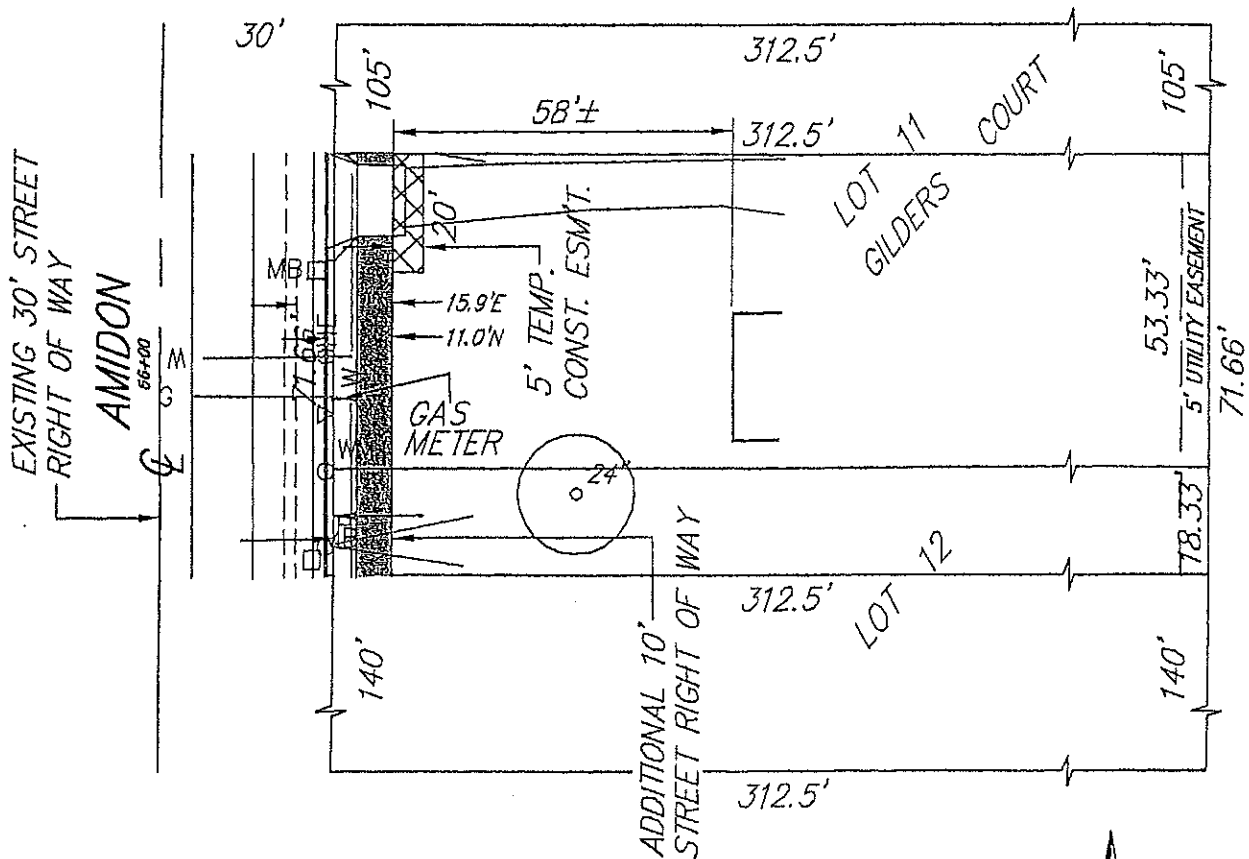
A 14027

-  = BRICK
-  = PROPOSED SIDEWALK
-  = PROPOSED TEMPORARY CONSTRUCTION EASEMENT

(DISTANCE)E = EXISTING CURB TO NEW PROPERTY LINE

Easement Area: 100 Sq. Ft.±
0.002 Acres±

(DISTANCE)N = NEW CURB TO NEW PROPERTY LINE



Ruggles & Bohm, P.A.

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Wichita, Kansas 67203
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(316) 264-4621 fax
E-mail: info@rbkansas.com

3647T



A 14027

2902 N Amidon



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City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Notice of Intent to Use Debt Financing Amendment
Electrical Equipment and Cabling, Package 25
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Consent

Recommendation: Adopt the Amending Resolution.

Background: The Airport Authority relies on the City of Wichita for the issuance of General Obligation bonds and/or notes for capital projects. In order to use debt financing for a project, it is necessary to declare that a public necessity exists for, and that the public safety, service, and welfare will be advanced by, the authorization of certain capital improvements to the Mid-Continent Airport facility. Additionally, the nature of said improvements, the estimated costs thereof, and the manner of payment, needs to be disclosed. The actual issuance of the bonds/notes will require a separate authorization from the City Council. Debt financing can be in the form of temporary notes for durations as short as six months for timing considerations or in the form of General Obligation bonds for long term financing.

Resolution 12-169 was adopted on June 26, 2012, and authorized the issuance of general obligation bonds for the improvement identified as Electrical Equipment and Cabling, Package 25 at an estimated cost of \$500,000.

Analysis: On September 24, 2013, the City Council, sitting as the Wichita Airport Authority, took action on a request to increase a capital budget for improvements to the Airport-owned electrical distribution system. To correspond with that action, this Amending Resolution reflects the revised estimated project cost to be financed through the issuance of general obligation debt.

Financial Considerations: The project budget requested is \$2,800,000, exclusive of interest on financing, administrative, and financing costs, which will be financed with general obligation bonds/notes. If the debt is issued, the source of repayment for the bonds/notes will be Airport revenues.

Legal Considerations: The Law Department has reviewed and approved the Amending Resolution as to form.

Recommendation/Action: It is recommended that the City Council adopt the Amending Resolution and authorize the necessary signatures.

Attachments: Amending Resolution.

RESOLUTION NO. 13-192

A RESOLUTION AMENDING RESOLUTION NO. 12-169 WHICH AUTHORIZED THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF IMPROVEMENTS TO THE WICHITA MID-CONTINENT AIRPORT FACILITY.

WHEREAS, the City of Wichita, Kansas (the “City” or the “Issuer”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council (the “Governing Body”) of the City has heretofore, pursuant to K.S.A. 3-162, created the Wichita Airport Authority (the “Authority”); and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1348a, as amended by Charter Ordinance No. 78 of the City (collectively, the “Act”) to issue general obligation bonds of the City without an election for the purpose of purchasing land for airport purposes or for the construction, enlargement, reconstruction, repair or addition to or of any improvements to said land used for airport purposes; and

WHEREAS, pursuant to Resolution No. 12-169 the Governing Body authorized the issuance of general obligation bonds of the City to finance improvements to the Wichita Mid-Continent Airport Facility consisting of Electrical Equipment and Cabling, Package 25 (the “Project”) at an estimated cost of \$500,000 exclusive of the cost of interest on borrowed money; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to amend Resolution No. 12-169 to increase the Project cost approved therein and to provide for the payment of the costs thereof by the issuance of general obligation bonds of the City.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. That Section 2 of Resolution 12-169 is hereby amended to read as follows:

“**Section 2.** It is hereby authorized, ordered and directed that the Project be acquired and installed at an estimated cost of \$2,800,000 in accordance with specifications prepared or approved by the Authority. The costs of the Project, interest on financing and administrative and financing costs shall be payable by the Authority and financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures authorized by Resolution No. 12-169 made on or after the date which was 60 days before the date of adoption of Resolution No. 12-169 and to reimburse additional expenditures authorized by this Resolution, which were made 60 days before the date of adoption of this Resolution, all pursuant to Treasury Regulation §1.150-2.”

Section 2. That the original version of Section 2 of Resolution No. 12-169 is hereby repealed. The rest and remainder of Resolution No. 12-169 it is hereby ratified and confirmed.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on October 22, 2013.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council

SUBJECT: Contract Renewal with Sedgwick County for Housing First Funding

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the contract agreement renewal and authorize the necessary signatures.

Background: In 2006, the Wichita City Council and the Sedgwick County Commission authorized a Task Force on Ending Chronic Homelessness. The Task Force held meetings and conducted research over an 18-month period, and presented its recommendations to both elected bodies in March, 2008. One of the recommendations was the creation of a Housing First program, which both governmental units endorsed. It was later agreed that the rental subsidy costs for the Housing First program would be evenly split between the City of Wichita and Sedgwick County, and that the City of Wichita would administer the program.

Analysis: According to the U.S. Department of Housing and Urban Development a "chronically homeless" person is "an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years". Housing First is a nationally-recognized model which has proven effective in addressing the needs of this population. In Wichita's Housing First program, participants are provided permanent housing in apartments located in scattered sites in the community. They are required to meet weekly with a case manager and to adhere to the terms of their lease. Rent and utility payments are provided for the units until such time as the participant can live independent of the assistance, or until/unless some other housing arrangement is deemed more appropriate.

Since the program began housing people in March, 2009, a total of 171 have been placed (as of September 30, 2013). Of the 171 clients served there have been 64 successful exits and 57 clients remain stably housed. Successful exits included: 38 who left the program because their income increased and they no longer needed the assistance; 16 who moved to be closer to family, five who received a Section 8 voucher, one who received a HUD-VASH voucher, one who moved into a Public Housing unit, two who entered a treatment facility, and one who entered a nursing home. Of the unsuccessful exits, 27 were terminated for program violations and 21 went to jail. Two people died while housed. Of the 57 people currently housed, 29 have remained in housing for over one year; 23 of the 57 are contributing a percentage of their income toward their housing expenses – partial rent and/or utility payments.

Financial Considerations: The 2014 budget for rent and utilities is \$382,736 for at least 64 units of housing. The City Council has approved funding from the General Fund, equal to half this amount. Sedgwick County has approved funding for the balance. This is the fifth year of funding for the program.

Legal Considerations: The Law Department has approved the contract agreement renewal as to form.

Recommendations/Actions: It is recommended that the City Council approve the contract agreement renewal and authorize the necessary signatures.

Attachments: Contract agreement renewal.

HOUSING FIRST AGREEMENT

This contract entered into as of this _____ day of _____ 2013, by and between the City of Wichita, a municipal corporation ("City" or "Contractor") and Sedgwick County, Kansas ("County").

WITNESSETH:

WHEREAS, City and County formed a Taskforce to End Chronic Homelessness (TECH) to develop a plan to effectively address the needs of people experiencing chronic homelessness; and

WHEREAS, the TECH plan to end chronic homelessness included implementation of a Housing First model program; and

WHEREAS, County wishes to contract with City for implementation of a Housing First model as hereinafter described.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties hereto do agree as follows:

1. Employment: County hereby agrees to engage City as an independent contractor and City hereby agrees to fulfill the purpose, goals and objectives specified in Appendix B – Purpose and Outcomes.
2. Term: The term of this contract shall be for a period of one year, commencing January 1, 2014 and ending December 31, 2014.
3. Scope: City shall do, perform and carry out implementation of a Housing First Model Program to serve individuals who meet the criteria for chronic homelessness and have a disability (as defined by the U.S. Department of Housing and Urban Development) in a satisfactory and proper manner, as determined by County and in conformance with the criteria outlined in Appendix B – Purpose and Outcomes.
4. Compensation: City and County expressly understand and agree that in no event shall the total, full and complete compensation and reimbursement, if any, paid hereunder to City for performance of this contract exceed the maximum cash amount of \$191,368.00 for rent support for approximately 32 apartments. Payments will be made monthly on a reimbursement basis upon receipt of an invoice detailing expenditures for the prior month. An invoice is required for payments to be processed. Additionally, City agrees to report to County quarterly as outlined in Appendix B – Purpose and Outcomes.
5. Indemnification Agreement. Both parties hereby expressly agree and covenant that they will hold and save harmless and indemnify the other party, its officers, agents, servants and employees from liability of any nature or kind connected with the work to be performed hereunder arising out of any act or omission of such party or of any

employee or agent of that party to the degree such indemnification is allowed by law. Provided, however, that such indemnification shall not be required to the extent that either the indemnified party or the indemnifying party has (or but for the indemnity, would have) a defense against or limitation of the subject liability under the Kansas Tort Claims Act.

6. Termination of Contract.

A. Termination for Cause. If Contractor shall fail to fulfill in a timely and proper manner its obligations under this contract, or if Contractor shall violate any of the terms, covenants, conditions, or stipulations of this contract, County shall thereupon have the right to terminate this contract by promptly giving written notice to Contractor of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in this contract and any appendices, exhibits or amendments thereto, if any.

In the event of termination, such information prepared by Contractor to carry out this contract, including data, studies, surveys, records, drawings, maps and reports shall, at the option of County, become the property of the County and be immediately turned over to the County. Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of this contract by Contractor and County may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due County from Contractor are determined.

B. Termination of Contract on Other Grounds. Except for paragraph A above, this contract may be terminated in whole or in part by either party, upon thirty (30) days written notice to the other party, stating the reasons(s) for the termination and the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto. When this contract is terminated, Contractor shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. County shall allow full credit to Contractor for the grant share of the non-cancelable obligations properly incurred by Contractor prior to termination. Whether this contract is canceled by County or Contractor as provided herein, Contractor shall be paid for work satisfactorily completed, so long as the provisions applicable to Billing and Payment have been met by Contractor.

7. Incorporation of Appendices: Appendix A – General Contractual Procedures; Appendix B – Purpose and Outcomes; and Appendix C - Budget are attached hereto and made a part hereof as if fully set out herein.

IN WITNESS WHEREOF, City and County have executed this contract as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

CITY OF WICHITA, KANSAS

James B. Skelton, Chairman
Board of County Commissioners

Carl Brewer, Mayor
Wichita City Council

ATTEST:

ATTEST:

Kelly B. Arnold, County Clerk

Karen Sublett, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:



Jennifer Magaña, Deputy County Counselor

Gary E. Rebenstorf, Director of Law

APPENDIX A

GENERAL CONTRACTUAL PROVISIONS

1. AUTHORITY TO CONTRACT.

- A. Affirmation of Legal Authority. City (herein referred to as "Contractor") assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this contract, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.
- B. Required Documentation. Domestic (Kansas) corporations shall 1) furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State. Foreign (non-Kansas) corporations shall furnish evidence of authority to transact business in Kansas, in the form of a Certificate signed by the Kansas Secretary of State; and 2) a copy of the Corporation Resolution evidencing the authority to sign the Contract Documents, executed by the Corporation's Secretary or Assistant Secretary. This subparagraph B shall not be applicable if the Contractor is a Kansas Municipal Corporation.

2. RELATIONSHIP of PARTIES.

It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, and employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, and employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

3. PERSONNEL.

- A. Qualified Personnel. Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this contract. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this contract.
- B. Minimum Wages. Contractor will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.
- C. Employee Conflict of Interest. Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- D. Contractor's Safeguard. The parties to this agreement recognize that entities or persons providing government-funded services to the public are the subject of public scrutiny. Consequently, by entering into this agreement Contractor assumes an affirmative and ongoing duty during the pendency of this contract to maintain compliance with requirements set forth in subsection E below. Such compliance requires the use of criminal or other legal background checks upon all personnel or agents providing services pursuant to this agreement, or administering the funds conveyed under this agreement.
- E. Participant Safeguard. Contractor certifies that:
1. Persons convicted of any felony, drug or drug-related offense, crime of falsehood or dishonesty, crime of moral turpitude or crime against another person during the ten-year period concluding on the date of execution of this contract or during the pendency of this contract, or any individual who is known by contractor to have had a prior employment history of abuse, neglect or exploitation of children or vulnerable adults, shall not be permitted to administer this contract or handle the funds conveyed under this contract;
 2. Persons with convictions for crimes against persons, for crimes of moral turpitude, including, but not limited to, sex offenses and crimes against children, or any individual who is known by contractor to have had a prior employment history of abuse, neglect or exploitation of children or vulnerable adults, shall not be permitted to provide services or interact in any way with persons served pursuant to this contract; and

3. Persons having been convicted of a serious driving offense, including but not limited to driving under the influence of alcohol or a controlled substance, during the five-year period concluding on the date of execution of this contract, or during the pendency of this contract, shall not be permitted to operate a vehicle in which a person served pursuant to this contract is a passenger. For purposes of this section, "serious traffic offense" shall not include any offense deemed a "traffic infraction" under K.S.A. 8-2116 and 8-2118.
 4. Any question concerning the interpretation of this subsection E and/or its application to an individual shall be referred to the Director of the Agency administering the funding of this agreement for the County. The Director's decision shall be final for purposes of compliance with this contract. The term "conviction" shall include convictions from any federal, state, local, military, or other court of competent jurisdiction, and shall include being placed into a diversion or deferred judgment program in lieu of prosecution. Contractor shall not be held accountable for cases in which diversions or deferred judgments are not reflected in an individual's criminal record, or for expunged convictions, if Contractor would have no other reasonable way of knowing of these acts.
- F. It is understood that this contract may be revoked at the discretion of the County if Contractor is in violation of Subsection E.

No penalty shall be assessed to the County for revocation of this agreement in the event of a breach of any portion of Appendix A, Section 3.

4. PROHIBITION OF CONFLICTS OF INTEREST.

- A. Interest of Public Officials and Others. No officer or employee of County, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this contract which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of County or any member of its governing body or other public official have any interest, direct or indirect, in this contract or the proceeds thereof.
- B. Interest of Contractor. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract.
- C. Employee Conflicts. Situations in which 1) an employee of the County shall also be an employee of Contractor at time of agreement, 2) an employee of Contractor seeks additional/alternate employment with County during pendency of agreement, or 3) an employee of County seeks additional/alternate employment with Contractor during pendency of agreement, shall require written notice to the County at the addresses listed in Section Twenty (20) below. The County shall make every effort to assure that such employees do not have any authority to approve 1) grant funds, 2) agreements, or 3) affiliate status to the Contractor or Contractor's competitors.
- D. Notice to Bidders. Requests for proposal or invitations for bid issued by Contractor to implement this contract will provide notice to prospective bidders that County's conflict of interest provision is applicable in that contractors who develop or draft specifications, requirements, statements of work and/or RFP's for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

5. FUNDING.

- A. Reprogramming of Funds. It is understood and agreed that in the event the amount of funds County actually receives from the County mill levy is less than anticipated, County may decrease the total compensation and reimbursement to be paid hereunder.
- B. Inability to Perform Contract. It is further understood and agreed that in the event Contractor's rate of progress on this contract is leading to underspending due to inability to provide services at planned levels, County may decrease the total compensation and reimbursement to be paid hereunder or withdraw from the agreement.
- C. Cash Basis and Budget Laws. The right of the parties to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that each party shall at all times stay in conformity with such laws, and as a condition of this Agreement each party reserves the

right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

D. Non-Supplanting Existing Funds. Contractor assures that grant funds made available under County mill levy grants and administered under this contract will not be used to supplant existing funds or other funding sources, but will be used to increase the amounts of those other funding sources.

E. Unexpended funds. It is agreed by Contractor and County that upon termination or expiration of the contract, any unexpended funds shall be returned to County.

6. PROGRAM INCOME.

Contract-related program income, if generated, shall be collected by Contractor and reported to County on Contractor's quarterly reports, required in Section Seven (7) below. Program income shall be defined as gross income earned by Contractor that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under the contract, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights. Interest earned on advances of County funds is not program income. Except as otherwise provided in County contract requirements, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc, or interest earned on any of them. Unless otherwise stated in the contract, program income earned during this contract term shall be retained by Contractor and shall be added to funds committed to the project by County and Contractor and used to further eligible project or program objectives.

7. RECORDS, REPORTS AND INSPECTION.

A. Documentation of Costs. All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible to both parties to this agreement.

B. Maintenance of Records. Except as otherwise authorized by County, Contractor shall retain such documentation for a period of three (3) years after receipt of the final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

C. Reports. During the term of this contract, Contractor shall furnish to County, in such form as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to Contractor will be withheld by County if Contractor fails to provide all required reports in a timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.

D. Audit. Contractor shall provide for an annual independent audit of its financial records and shall provide a copy of said audit to County annually. With the copy of the audit Contractor shall include a copy of the audit letter to management and agency response. If not otherwise required by law to perform an audit and upon approval by County, Contractor may provide a copy of a financial balance sheet developed by a reputable accountant/accounting firm instead of a formal audit.

E. Availability of Records. Contractor agrees to make any and all of its records, books, papers, documents and data available to County, or the authorized representative of a State agency with statutory oversight authority, for the purpose of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies and transcriptions at any time during the terms of this contract and for a three (3) year period following final payment under the terms of this contract.

F. Contractor's Purchasing Procedure. Contractor certifies that it does not practice any form of discrimination based on race, ethnic origin, gender or religion or disability in its purchasing procedures. Contractor agrees to make available a written description of its purchasing procedures if requested by County.

G. Confidentiality. Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

8. METHOD OF BILLING AND PAYMENT.

A. Billing Procedures. Contractor agrees that billings and payments under this contract shall be processed in accordance with established budgeting, purchasing and accounting procedures of Sedgwick County, Kansas. Subject to the maximum amount of compensation prescribed on page 1 at paragraph 4 of this

contract, payment shall be made after the receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by this contract.

- B. Support Documentation. Billing shall be supported with documentation required by County including, but not necessarily limited to, that documentation described in Section Seven (7) above.
- C. Reimbursement Restrictions. Payments shall be made to Contractor only for items and services provided to support the contract purpose when such items and services are specifically authorized by this agreement. County reserves the right to disallow reimbursement for any item or service billed by Contractor if County believes that such item or service was not provided to support the contract purpose or was not authorized by the contract.
- D. Pre-disbursement Requirements. Contractor must provide to County the documentation required pursuant to this contract prior to any disbursements being made by County to Contractor.
- E. Mailing Address. Payments shall be mailed to Contractor's address as listed in paragraph 20 below.

9. PARTICIPANT INPUT.

Contractor shall provide persons receiving services funded pursuant to this contract with an opportunity to assess and evaluate the program at least once during the contract term, unless such requirements are more specifically addressed elsewhere in this agreement or by statute.

10. LICENSES AND PERMITS.

Contractor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out this contract. Contractor shall notify County immediately if any required license, permit, bond or insurance is canceled, suspended or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation by County, in its discretion.

11. INSURANCE REQUIREMENTS

Contractor shall annually provide evidence of its self-insured status upon request. Contractor shall also annually provide evidence of Professional Liability insurance, as appropriate.

12. EPA APPROVED BUILDING.

Contractor will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the contract are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the contract is under consideration for such listing by the EPA.

13. HANDICAPPED ACCESSIBILITY.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements of the Americans With Disabilities Act (ADA) which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

14. ASSIGNMENT.

Neither this contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

15. SUBCONTRACTING.

None of the work or services covered by this contract shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to applicable requirements set forth in this contract and in its appendices, exhibits and amendments, if any.

16. PUBLICATION OF CONTRACT RESULTS.

- A. Copyright. If this contract results in a book or other material which may be copyrighted, the author is free to copyright the work. County reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted material and all material which can be copyrighted.

- B. Documentation of originality or source. All published material and written reports submitted under this contract or in conjunction with the third party agreement under this contract will be originally developed material unless specifically provided for otherwise. Material not originally developed included in reports will have the source identified either in the body of the report or in a footnote, whether the material is in a verbatim or extensive paraphrase format. All published material and written reports shall give notice that funds were provided by a grant from County.

17. COMPLIANCE WITH APPLICABLE LAWS, SERVICE STANDARDS AND REQUIRED PROCEDURES.

- A. Service Standards and Procedures. Contractor shall perform the services set forth in this contract in compliance with applicable standards and procedures specified in Appendix B which covers the specific purpose and outcomes of this agreement.
- B. Governing Law. This contract shall be interpreted under and governed by the laws of the State of Kansas.
- C. Compliance With Law. Contractor shall comply with all applicable local, state and federal laws and regulations, in carrying out this contract, regardless of whether those legal requirements are specifically referenced in this agreement.
- D. Access to Meetings. Contractor agrees to grant access to County to meetings of its managing board or committee during that time when matters involving use of County grant funds are discussed, if requested by County.

18. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.

In carrying out this contract, Contractor shall deny none of the benefits or services of the program to any eligible participant pursuant to K.S.A. 44-1001 *et seq.*

- A. Contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin, or ancestry.
- B. In all solicitations or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.
- C. If Contractor fails to comply the provisions of K.S.A. 44-1031, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part, by County.
- D. If Contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part by County.
- E. Contractor shall include the provisions of paragraphs A through D inclusively of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- F. The provisions of this section shall not apply to a contract entered into by a contractor who: 1) employs fewer than four employees during the term of this contract; or 2) whose contracts with the County cumulatively total \$5,000.00 or less during the fiscal year of the County pursuant to K.S.A. 44-1031(c).

19. TERMINATION OF CONTRACT.

- A. Termination for Cause. If Contractor shall fail to fulfill in a timely and proper manner its obligations under this contract, or if Contractor shall violate any of the terms, covenants, conditions, or stipulations of this contract, County shall thereupon have the right to terminate this contract by promptly giving written notice to Contractor of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in this contract and any appendices, exhibits or amendments thereto, if any.

In the event of termination, such information prepared by Contractor to carry out this contract, including data, studies, surveys, records, drawings, maps and reports shall, at the option of County, become the property of the County and be immediately turned over to the County. Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of this contract by Contractor and County may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due County from Contractor are determined.

B. Termination of Contract on Other Grounds. Except for paragraph A above, this contract may be terminated in whole or in part by either party, upon thirty (30) days written notice to the other party, stating the reasons(s) for the termination and the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto. When this contract is terminated, Contractor shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. County shall allow full credit to Contractor for the grant share of the non-cancelable obligations properly incurred by Contractor prior to termination. Whether this contract is canceled by County or Contractor as provided herein, Contractor shall be paid for work satisfactorily completed, so long as the provisions applicable to Billing and Payment have been met by Contractor.

20. INDEMNIFICATION AGREEMENT.

Both parties hereby expressly agree and covenant that they will hold and save harmless and indemnify the other party, its officers, agents, servants and employees from liability of any nature or kind connected with the work to be performed hereunder arising out of any act or omission of such party or of any employee or agent of that party to the degree such indemnification is allowed by law. Provided, however, that such indemnification shall not be required to the extent that either the indemnified party or the indemnifying party has (or but for the indemnity, would have) a defense against or limitation of the subject liability under the Kansas Tort Claims Act.

21. NOTIFICATION.

Notifications required pursuant to this contract shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

County: Sedgwick County Division of Health and Human Services
Attn: Tim Kaufman, Director
635 N. Main
Wichita, KS 67203-3752
PHONE (316) 660-7600
FAX (316) 383-7925

Sedgwick County Legal Department
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, KS 67203-3790

Contractor: City of Wichita
Mary K. Vaughn, Housing Director
332 N. Riverview
Wichita, Kansas 67203

City of Wichita Legal Department
Attn: Contract Notification
City Hall, 455 North Main
Wichita, KS 67202

22. Amendments to Agreement.

To provide necessary flexibility for the most effective execution of this contract, whenever both County and Contractor mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract. Any change which affects contract objectives must be approved by COMCARE and the Sedgwick County Board of Commissioners. Line item changes to the approved Appendix C- Budget

(where applicable) exceeding ten percent (10%) or \$5,000 (whichever is less) must be presented to and approved by the Executive Director of COMCARE.

23. Certificate of Tax Clearance.

Annually Contractor shall provide County with a certificate of tax clearance from the State of Kansas certifying Contractor has paid all state taxes.

24. Debarment/Suspension

Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the Excluded Parties List System (EPLS) shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been placed on the Excluded Parties List System (EPLS) and any federal funding received or to be received by Sedgwick County in relation to this Agreement prohibits Sedgwick County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the EPLS, the Contractor shall notify Sedgwick County in writing of such determination within five (5) business days as set forth in the Notice provision in this Agreement. Sedgwick County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under EPLS and to notify County within the same five (5) business days, and with the County reserving the same right to terminate for breach as set forth herein.

APPENDIX B – PURPOSE AND OUTCOMES

CITY OF WICHITA – HOUSING FIRST INITIATIVE

It is mutually agreed by and between County and City that it is the purpose of this contract for City to implement a Housing First model program to serve individuals who meet the criteria for chronic homelessness and have a disability (as defined by the U.S. Department of Housing and Urban Development) through its Housing and Community Services Department.

1. GENERAL PROVISIONS.

- A. It is understood that City's records used in the preparation of all reports are subject to review by County to ensure the accuracy and validity of the information reported.
- B. It is mutually agreed by and between County and City that this contract will be evaluated by County in terms of meeting purpose and outcomes.
- C. City shall provide written notice to the Division of Human Services if it is unable to provide the requested quantity or quality of service. This written notice shall include a plan to address the issues affecting quantity and/or quality of services being provided.
- D. City agrees to submit a program progress report covering the outcomes as listed below by the 15th day of the month following each calendar quarter. Financial reports are due no later than the 15th day of the month following the end of each calendar quarter. Reports should be in a format acceptable to County. A report template is available. The report should be sent to the Division of Human Services Homeless Plan Specialist (e-mail address available upon request). The program progress report should address the outcomes as stated in the contract. Financial reports should provide a line item account of how the funds were expended over the last quarter in accordance with the budget as set out in Appendix C. If the reports are not received by the aforementioned deadline, City may be subject to suspension of payment until the reports have been received and approved.
- E. Sedgwick County funds will only be used to serve individuals who meet the criteria for chronic homelessness and have a disability as defined by the U.S. Department of Housing and Urban Development.

2. SERVICE DESCRIPTION.

A Housing First program is designed to end homelessness and support recovery for individuals who are homeless and have a disability. The Housing First model is based on the belief that housing is a basic need and on a theoretical foundation that emphasizes consumer choice and harm reduction. The program addresses homeless individuals' needs

from a consumer perspective, encouraging them to define their own needs and goals, and provides immediate housing (in the form of apartments located in scattered sites) without any prerequisites for treatment.

Consumers' tenancy is not dependent on their adherence to treatment. Case managers work with consumers through housing loss, hospitalization, or incarceration and help consumers obtain housing after these episodes. While consumers can refuse services, the program requires them to meet with a case manager at least four times per month to ensure their safety and well-being.

Important components for all Housing First programs include:

- a) Case management is utilized to coordinate services that follow a housing placement;
- b) Housing is not contingent on the consumer's willingness to accept treatment services;
- c) Consumers are encouraged but not required to take medications or abstain from using substances to participate;
- d) Service plans are individualized and client driven;
- e) Assistance locating rental housing and lease negotiation, as well as relationship building with private market landlords; and,
- f) Housing placement is not time limited.

Sedgwick County is allocating \$191,368.00 for approximately 32 apartments in the Housing First Model Program. It is anticipated that 16 of the 32 apartments will be one-bedroom apartments but the figure can be adjusted contingent on County approval. Up to \$10,000 is budgeted for repairs.

3. OUTCOMES.

City agrees to report on outcomes quarterly. Performance reports are due by the 15th day of the month following the end of the calendar quarter. Reports should be submitted to the attention of the Division of Health and Human Services Homeless Plan Specialist at 635 N. Main, Wichita, KS 67203.

1. Maintain fidelity to the model as evidenced by adherence to the components listed above.
2. Reduction in length of stay in shelters as measured by time Housing First consumers spent in shelters during the last year as compared to length of time spent in shelters during the current year.
3. Number of consumers referred for Housing First services, placed in Housing First apartments, and number of consumers continuing in the Housing First program.
4. Reduction in subsidy amounts needed to continue housing participants, due to increases in participant income.
5. Reduction in homelessness for program participants as measured by consumers not re-entering the shelter system.
6. Number of positive exits from the Housing First program.

APPENDIX C – BUDGET

CITY OF WICHITA HOUSING FIRST PROGRAM

EXPENDITURE	BUDGETED AMOUNT
Rent and Security Deposit	\$181,368.00
Repairs	\$10,000.00
TOTAL	\$191,368.00

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council

SUBJECT: Partial Loan Forgiveness Request, Home Repair Program (District I)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the partial loan forgiveness request, based on a selling price of \$10,000, with one-half of the net proceeds from the approved sale to be paid to the City, and authorize the necessary signatures.

Background: Since 1993, The Housing and Community Services Department has provided loans for down payments and closing costs, and in some cases rehabilitation, in connection with the purchase of a home through the HOMEownership 80 Program. The current program design was implemented in 2006 and provides for forgiveness of the minor rehabilitation loan after five years and forgiveness of one-half of the down payment assistance loan after either five or 10 years, depending on the amount of the loan.

Analysis: On September 24, 1996, a deferred payment loan in the amount of \$17,555 was extended to Mary Wyatt, for general rehabilitation expenses in connection with her purchase of a single-family home located at 1120 N. Minneapolis. The loan is secured by a mortgage on the property and includes no forgiveness provisions. Mary Wyatt died in 2006 and her daughter, Renee Wyatt, is now the owner of the property. The property was occupied by Renee Wyatt's brother until 2010, but has been vacant since that time. Since her mother's death, Ms. Wyatt has advanced funds to maintain hazard insurance on the property, and has continued payment of the property taxes. She has also incurred expenses in maintaining the lawn and in preparing the house for sale.

Ms. Wyatt employed a real estate professional to market the property. She has secured an "as-is" offer in the amount of \$10,000, which is not sufficient to entirely repay the City loan. No one involved in the sale of the property was aware of the City mortgage. The mortgage lien was discovered when the title work was prepared in order to complete the closing of the sale.

According to the Sedgwick County Appraiser, the value of the home is \$28,900 and it is designated to be in "Fair" condition. An inspector from the Housing and Community Services Department's Home Improvement Program conducted an inspection of the property and found several deficiencies related to deferred maintenance and vandalism damage related to the theft of copper water supply lines and wiring. Broken fixtures, worn/soiled flooring material, and deteriorated exterior paint were also identified. It appears that minimal improvements have been made to the structure since the City loan was extended. Staff estimates the cost of repairs/rehabilitation necessary to achieve compliance with the minimum housing code to be \$20,000.

Ms. Wyatt has requested partial forgiveness of the City loan, so that she may proceed with sale of the property and recover some of her expenses related to maintaining it. Staff recommends that Ms. Wyatt be allowed to proceed with the sale, with one-half of the net proceeds to be retained by her, and one-half of the net proceeds to be paid to the City.

Financial Considerations: The net proceeds to be realized from the sale of the property, following payment of selling expenses, seller's closing costs and the pro-ration of the 2013 real estate taxes, are estimated to be \$9,500. Under the proposed arrangement, the seller would retain approximately \$4,750 and the City would accept approximately \$4,750 in exchange for full release and satisfaction of the City's mortgage. The funds to be paid to the City as a result of this sale are considered to be program income for the City's HOME Investment Partnerships Program (HOME Program).

Upon receipt of its share of the net proceeds the City will prepare documents necessary to release the mortgage lien on the property, which will be filed of record by the closing agent.

Legal Considerations: ~~The Law Department has approved the requested action as to form.~~ The Law Department has reviewed and approved the process.

Recommendations/Actions: It is recommended that the City Council approve the partial loan forgiveness request, based on a selling price of \$10,000, with one-half of the net proceeds from the approved sale to be paid to the City, and authorize the necessary signatures.

Attachments: None.

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council

SUBJECT: 2012 Community Services Block Grant Budget Adjustment

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the 2012 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

Background: Community Services Block Grant Funds (CSBG) are allocated through the U.S. Department of Health and Human Services (HHS) to support programs that meet the needs of persons with low incomes. In Kansas, CSBG funds are administered by the Kansas Housing Resources Corporation (KHRC) and are awarded by formula to Community Action Programs (CAPs) throughout the state. For over 30 years the City of Wichita has been a CAP and received CSBG funding for Wichita and Sedgwick County. The Wichita Sedgwick County Community Action Partnership (WSCCAP), formerly Career Development Office (CDO) of the Housing and Community Services Department administers the CSBG Program locally.

Funding is provided to the WSCCAP following approval of an application to KHRC which designates categories of use for the funds. The City Council authorized staff to submit an application for the 2012 CSBG program on February 7, 2012. The application included the following allocations: \$37,500 for Neighborhood Cleanups; \$25,874 for the Youth Employment and Training Program; \$40,000 for Summer Activity Camps scholarships; and an allocation of \$250,000 to Project Access to provide prescription assistance and durable medical equipment to uninsured persons. The KHRC approved a grant award of \$998,259 with a grant ending date of September 30, 2013.

Analysis: On September 10, 2013, the City Council approved a budget adjustment transferring \$30,000 from Neighborhood Cleanups and \$20,000 from the Youth Employment and Training Program to address the shortfall in the Neighborhood City Hall operating budgets for utilities (water, gas, electric and trash service), custodial service, maintenance and insurance.

Now that all documentation for all 2012 program expenses has been received and budgets reconciled, there are funds remaining in the 2012 budget allocation that can be transferred to address continuing budget needs. The proposed transfer is \$34,650. Project Access staff notified WSCCAP that it would not be able to spend \$26,350 from its contract amount due to decreased enrollments. In addition, there are the following balances remaining in funded activities: Neighborhood Cleanup - \$3,500; Youth Employment Training Program - \$4,400; and Summer Activity Camps - \$400. These amounts will be transferred and budgeted for operating costs of the Neighborhood City Halls.

All funds under the 2012 funding agreement must be utilized or obligated by September 30, 2013. This request meets that requirement because all expenses which will be made with the transferred funds were obligated by September 30. Failure to move these funds which are not needed for the original intent will result in the funds being returned to the state.

Administrative Regulation 2.4 requires City Council approval of budget adjustments which reflect a substantial program or financial change in excess of \$25,000. Approval of this budget adjustment for \$34,650 does not require re-submission to the KHRC.

Financial Considerations: No general operating funds from the City's budget are obligated by the budget adjustment.

Legal Considerations: ~~The Law Department has approved the budget adjustment as to form.~~ *None.*

Recommendation/Action: It is recommended that the City Council approve the 2012 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

Attachments: None.

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council
SUBJECT: Contract for Paratransit Service Review
INITIATED BY: Wichita Transit
AGENDA: Consent

Recommendation: Approve the contract.

Background: ADA transportation services are a federally mandated responsibility of Wichita Transit. Wichita Transit's obligations for Paratransit service are met through the operation of the Paratransit division within Wichita Transit and by contracting with private agencies.

Wichita Transit intends to analyze and evaluate Paratransit operations utilizing consulting services. Wichita Transit will evaluate Paratransit services in three general areas:

- An evaluation of the Paratransit division to determine system performance operating characteristics.
- An evaluation of the services provided by contracting agencies including analysis of costs, operating characteristics, system performance and federal compliance.
- An evaluation and analysis of the Wichita Transit ADA certification process to determine federal compliance.

The study will be completed in early 2014 and will provide an assessment of Paratransit service performance, compliance with Federal guidelines and make recommendations for improvements that will lead to more effective service.

Analysis: In August, 2013, Wichita Transit received two proposals for the Paratransit Service Review, Robbie Sarles and Associates and Parsons Brinkerhoff. A selection committee chose Robbie Sarles and Associates based on the quality of their proposal, past experience and cost.

Financial Consideration: The quote received from Robbie Sarles and Associates to complete the project is \$60,302, which will be financed 80% Federal funds (FTA 5307) and 20% local match. Local Match funds are included in the annual budget.

Legal Consideration: The Law Department has reviewed the contract as to form.

Recommendation/Actions: It is recommended that the City Council approve the contract with Robbie Sarles and Associates and authorize the necessary signatures.

Attachments: Contract

CONTRACT FOR PARATRANSIT SERVICE REVIEW

THIS CONTRACT is entered into this ____ day of October, 2013, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **RLS AND ASSOCIATES, INC.** (910-328-5770) hereinafter called "**CONTRACTOR**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for a Paratransit Service Review (FP 340041); and

WHEREAS, CONTRACTOR has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services.** **CONTRACTOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number FP340041, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the **CITY** as part of the proposal letting process for Formal Proposal 340041 shall be considered a part of this Contract and is incorporated by reference herein.

2. **Compensation.** **CITY** agrees to pay to **CONTRACTOR** \$60,302 for the professional services as per the proposal, plans, specifications, addenda and Contractor's proposal of August 29, 2013 and as approved by the City Council on October 22, 2013.

3. **Term.** The term of this Contract shall be for a 6 month period beginning October 23, 2013. This Contract is subject to cancellation by the **CITY**, at its discretion at any time within the original Contract term or within any successive renewal, upon thirty (30) days written notice to **CONTRACTOR**.

4. **Indemnification and Insurance.**

a. **CONTRACTOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract,

or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONTRACTOR** will carry insurance coverage during the term of this Contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises— operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
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Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
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2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
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3. Workers' Compensation Statutory

Employers Liability	\$100,000 Each Accident \$500,000 Aggregate \$100,000 Occupational Disease
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The Insurance Certificate must contain the following:

- A. Statement that the Contractual Liability includes the Liability of the CITY assumed by the CONTRACTOR in the Contract documents.
- B. Cancellation – should any of the above policies be canceled before the expiration date thereof the issuing company will mail a ten (10) day written notice to certificate holder.

5. **Independent Contractor.** The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

6. **Compliance with Laws.** **CONTRACTOR** shall comply with all laws, statutes, ordinances, and federal clauses which may pertain to the providing of services under this Contract.

7. **No Assignment.** The services to be provided by the **CONTRACTOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. **Non-Discrimination.** **CONTRACTOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment/Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration.** The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. **Governing Law.** This Contract shall be interpreted according to the laws of the State of Kansas.

12. **Representative's Authority to Contract.** By signing this Contract, the representative of the **CONTRACTOR** represents that he or she is duly authorized by the **CONTRACTOR** to execute this Contract, and that the **CONTRACTOR** has agreed to be bound by all of its provisions.

13. **Disputes.** All claims, disputes, and other matters in question between the **CITY** and the **CONTRACTOR** arising out of or relating to this Contract shall be referred in writing to the **CITY** for final determination, including all facts, documents and records related thereto. The **CITY** shall make a written determination within 30 days of such referral. Such referral and determination shall be a condition precedent to commencement of a civil action to adjudicate such issue. The **CITY** and the **CONTRACTOR** agree that any such determination shall not be considered or construed as a decision resulting from arbitration under Kansas state laws.

14. **Termination of Contract.**

- A. The CITY may terminate this Contract, in whole or in part, in writing if the CONTRACTOR substantially fails to fulfill any or all of its obligations under this Contract through no fault of the CITY; provided that, insofar as practicable, the CONTRACTOR will be given: (1) not less than 30 calendar days' written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with the CITY before termination to review what steps are deemed necessary to cure the default.
- B. In addition to termination under Paragraph A of this Section, the CITY may terminate this Contract, in whole or in part, in writing, for its convenience; provided, the CONTRACTOR will be given: (1) not less than 30 calendar days' written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with the CITY before termination.
- C. If the CITY terminates for default on the part of the CONTRACTOR, the CITY shall determine the amount of work satisfactorily completed to the date of termination and the amount owing to the CONTRACTOR using the criteria set forth below in this paragraph; provided, that: (1) no amount shall be allowed for anticipated profit on unperformed services or other work; and (2) any payment due to the CONTRACTOR at the time of termination may be adjusted to the extent of any additional cost the CITY is likely to incur because of the CONTRACTOR'S default.
- D. In the event of a default termination, the CITY shall consider the actual costs incurred by the CONTRACTOR in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to the date of termination, whether that work is in a form or of a type which is usable and suitable to the CITY at the date of termination, cost to the CITY of completing work itself, or of employing another firm to complete it and the inconvenience and time which may be required to do so, and other factors which affect the value to the CITY of the work performed to the date of termination. Under no circumstances shall payment made under this provision exceed the maximum payment set forth in this Contract. This provision shall not preclude the CITY from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by withheld payment.
- E. If the CITY terminates for convenience, the CITY will pay the CONTRACTOR an amount for services satisfactorily performed to the date of termination, a reasonable profit for such services or other work satisfactorily performed, and an amount to reimburse the CONTRACTOR for reasonable and necessary expenses incurred before the termination. In addition, reasonable termination settlement costs incurred by the CONTRACTOR arising from commitments made before the termination may be paid unless the CITY determines to assume said commitments.

Under no circumstances shall payment made under this provision exceed the maximum payment set forth in this Contract

- F. Upon receipt of a termination notice under Paragraphs A or B above, the CONTRACTOR shall: (1) promptly discontinue all services affected (unless the notice directs otherwise); and (2) promptly deliver or otherwise make available to the CITY all data, drawings, specifications, calculations, reports, estimates, summaries, such other information and materials as the CONTRACTOR or subconsultants may have accumulated in performing this Contract, whether completed or in progress; (3) promptly take all necessary steps to terminate related contractual commitments to minimize termination settlement costs.
- G. If, after termination for failure of the CONTRACTOR to fulfill contractual obligations, it is determined that the CONTRACTOR has not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, the equitable adjustment shall be determined as set forth in Paragraph D of this Section.
- H. If, because of death, unavailability or any other occurrence, it becomes impossible for any lead personnel employed by the CONTRACTOR or for any corporate officer of the CONTRACTOR to render services, the CONTRACTOR shall not be relieved of its obligations to complete performance under this Contract without the concurrence and written approval of the CITY. If the CITY agrees to termination of this Contract under this provision, payment shall be made as set forth in Paragraph C of this Section.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

Janis Edwards
Deputy City Clerk

Carl Brewer
Mayor

APPROVED AS TO FORM:

RLS and Associates, Inc.

Gary E. Rebenstorf
Director of Law

Robbie L Sarles

Title (President or Corporate Officer)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, Contractor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, Contractor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor

reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the federal agency involved.



**DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM**

TO: Karen Sublett, City Clerk
FROM: Gary E. Rebenstorf, Director of Law
SUBJECT: Report on Claims for September 2013
DATE: October 3, 2013

The following claims were approved by the Law Department during the month of September 2013.

AT&T	\$ 1,924.62**
Cruz, Casanova	\$ 5,260.63* **
Cruz, Donald	\$ 6,000.00* **
Jones, Lindsay	\$ 2,074.16
Kerr, Gloria	\$ 3,100.00**

*City Manager Approval

** Settled for lesser amount than claimed

***Settled for more than amount claimed

cc: Robert Layton
Shawn Henning

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council

SUBJECT: Payment for Settlement of Claim

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of \$12,500 as a full settlement for all claims arising out of an automobile/bus accident occurring on September 24, 2012.

Background: This claim arises from an automobile accident involving a Wichita Transit bus occurring on September 24, 2012. Claimant, a passenger on a City bus, alleges that he sustained physical injuries requiring medical treatment when the bus stopped suddenly striking a vehicle which had stopped in front of the bus. He asserts claims for medical expenses and pain and suffering.

Analysis: The claimant has agreed to accept a lump sum payment of \$12,500 as full settlement of all his claims against the City of Wichita and its employee. Due to the uncertainty and risk of an adverse judgment at trial, the Law Department recommends the settlement. The settlement of this claim does not constitute an admission of liability on the part of the City or the employee; rather, it is merely a settlement to resolve a disputed claim.

Financial Considerations: Funding for this settlement payment is to be obtained from the Transit budget. Finance is authorized to make any budget adjustments necessary for payment of the settlement.

Legal Considerations: The Law Department recommends settlement of this claim for the amount of \$12,500.

Recommendations/Actions: It is recommended that the City Council authorize payment of \$12,500 as full settlement of all possible claims arising out of the events which are the subject of this claim.

Attachments: None

CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Acquisition by Eminent Domain of Tracts Required for the Chemical Sewer Odor Control Site at 2300 North Broadway (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Adopt the resolution and place the ordinance on first reading.

Background: As part of the sanitary sewer system, the City of Wichita has facilities for the injection of chemicals into the sanitary sewer to control odors. One such facility is located at 2300 North Broadway. The site was developed on an area acquired by easement in 1992. A review of the easement has revealed potential issues with the validity of the easement that may impact the City's rights to be on the site.

Analysis: The City has attempted to negotiate a new easement with the current owner of the site. The owner has rejected these attempts. There are no functionally viable alternate sites that are financially feasible. Due to these issues, it is necessary to initiate eminent domain at this time. Staff will continue to negotiate with the owner. If an agreement is reached the eminent domain action will be halted.

Financial Considerations: The cost of these acquisitions will be paid for with General Obligation Bonds.

Legal Considerations: ~~The City is authorized by law to commence eminent domain proceedings to acquire these properties.~~ *The Law Department approved the resolution and ordinance as to form.*

Recommendation/Action: It is recommended that the City Council adopt the resolution; place the condemnation ordinance on first reading; and authorize the necessary signatures.

Attachments: Aerials, condemnation resolution and condemnation ordinance.

RESOLUTION NO. 13-193

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE CHEMICAL SEWER ODOR CONTROL SITE AT 2300 NORTH BROADWAY IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS;

WHEREAS, the governing body has previously authorized certain improvements for chemical sewer odor control at 2300 North Broadway in the City of Wichita; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS;

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with the chemical sewer odor control site at 2300 North Broadway.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 22nd day of October, 2013.

CITY OF WICHITA:

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

PUBLISHED IN THE WICHITA EAGLE ON 184754

ORDINANCE NO. 49-591

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CHEMICAL SEWER ODOR CONTROL SITE AT 2300 NORTH BROADWAY IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the chemical sewer odor control site at 2300 North Broadway in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

The east 275.00' of the west 350.00 feet of the south 100.00 feet of the N1/2 of the SW1/4 of the SW1/4 of Sec. 4, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, containing 27,501 square feet, more or less.

Permanent easement for access over and across the following-described tracts, to-wit:

That part of the N1/2 of the SW1/4 of the SW1/4 of Sec. 4, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northwest corner of the SW1/4 of said SW1/4; thence N88°49'57"W along the north line of the SW1/4 of said SW1/4 to a point being 45.00 feet east of the west line of said SW1/4, also being the east right of way line of the AT&SF Railroad, for a place of beginning; thence continuing N88°49'57"W along said north line to a point 20.00 feet east of the place of beginning; thence S00°45'10"E, parallel with said west line, 547.07 feet; thence S50°00'00"W, 30.44 feet; thence S40°00'00"W, 20.00 feet; thence N50°00'00"W, 39.60

feet to said east right of way line; thence N00°45'10"W, along said east right of way line, 556.09 feet to the place of beginning, containing 11,732 square feet, more or less.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 5th day of, November 2013.

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

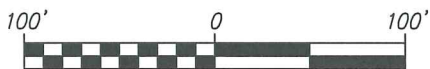
APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

EXHIBIT D

EASEMENT

That part of the N1/2 of the SW1/4 of the SW1/4 of Sec. 4, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northwest corner of the SW1/4 of said SW1/4; thence N88°49'57"W along the north line of the SW1/4 of said SW1/4 to a point being 45.00 feet east of the west line of said SW1/4, also being the east right of way line of the AT&SF Railroad, for a place of beginning; thence continuing N88°49'57"W along said north line to a point 20.00 feet east of the place of beginning; thence S00°45'10"E, parallel with said west line, 547.07 feet; thence S50°00'00"W, 30.44 feet; thence S40°00'00"W, 20.00 feet; thence N50°00'00"W, 39.60 feet to said east right of way line; thence N00°45'10"W, along said east right of way line, 556.09 feet to the place of beginning, containing 11,732 square feet, more or less.



DWG FILE: SURVEY BASE
PROJECT NO. 4167S

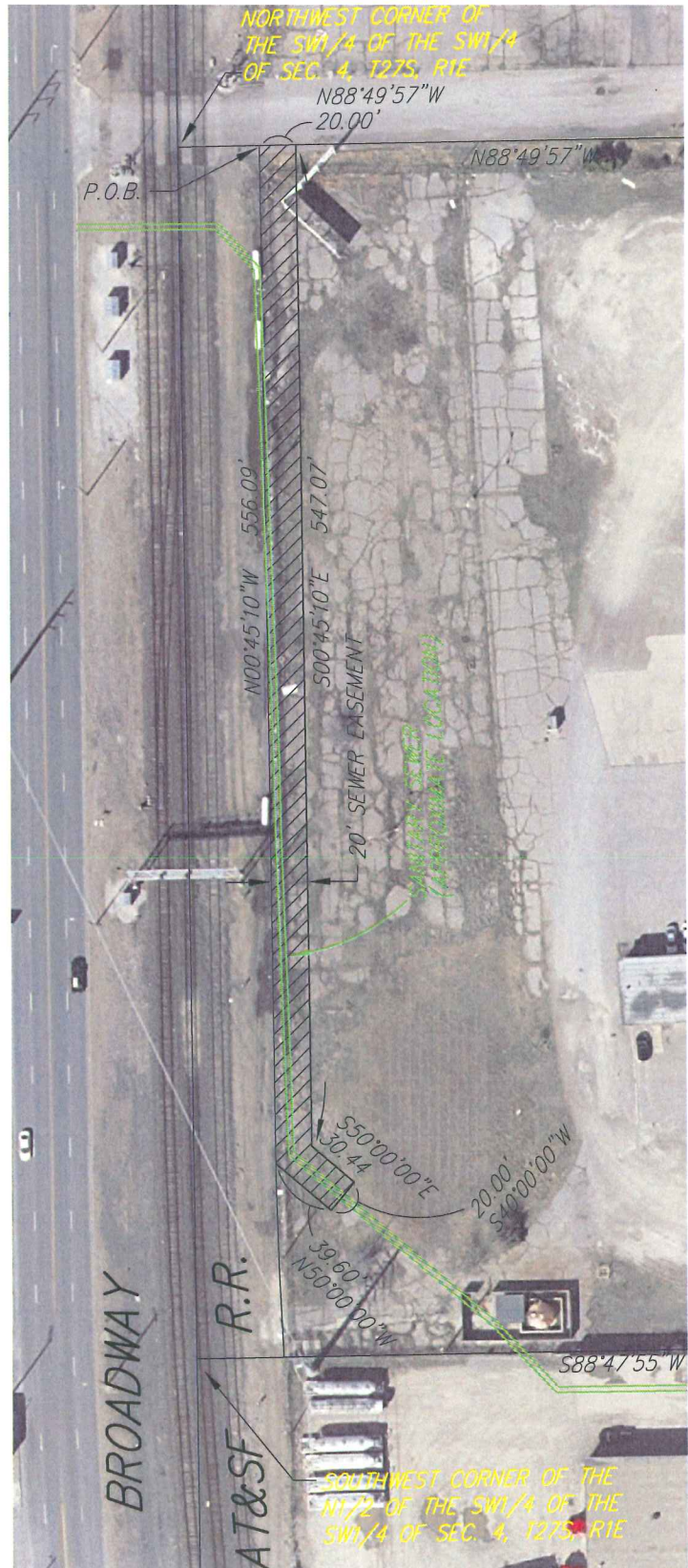
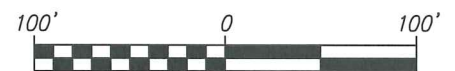
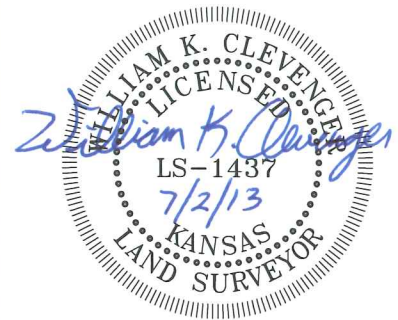


EXHIBIT E



PROPERTY ACQUISITION

The east 275.00' of the west 350.00 feet of the south 100.00 feet of the N1/2 of the SW1/4 of the SW1/4 of Sec. 4, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, containing 27,501 square feet, more or less.



DWG FILE: SURVEY BASE
PROJECT NO. 4167S

 = PROPOSED PROPERTY ACQUISITION

CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Sale of City Property at 1304 West 55th Street South (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sale.

Background: In 1995, the City acquired 3.49 acres immediately east of South Lake Park to help buffer the park against future development. The parcel was developed with a single-family residence that has since been removed. The City has received an offer for the parcel from the owner of property to the east who wishes to incorporate the property into a proposed residential development.

Analysis: The property was appraised for \$159,000 (\$.90 per square foot). The purchaser has offered to provide several amenities for the park in exchange for the parcel. These include construction of a five-foot wrought iron fence along the new property line, construction of an eight-foot chain link fence along the boundary of the park north of the parcel, construction of a ten-foot wide path along the east side of the lake, acquisition and placement of benches, tables, and trash cans along the path and donation of \$17,000 to be used to acquire a floating fishing dock for the lake. The value of these improvements is estimated to equate to the appraised value of the property. The Park Board has reviewed and approved the transaction.

Financial Considerations: The City will receive amenities that will enhance South Lake Park. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council approve the real estate purchase agreement and authorize all necessary signatures.

Attachments: Real estate purchase agreement and aerial.



Southlakes Park

Private Acquisition Request



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



REAL ESTATE SALE CONTRACT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2013 by and between the City of Wichita, a municipal corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and Angel Fire LLC, a Kansas limited liability corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed subject to all easements of record the following described real property, situated in Sedgwick County, Kansas, to-wit:

A tract of land in the West half of the Southeast quarter of the Southeast quarter of Section 19, Township 28, Range 1 East in Sedgwick County, Kansas, beginning at a point 660 feet West of the Southeast corner of said Section 19, thence North 1,052.5 feet, thence West 165 feet, thence South 1052.5 feet, thence east 165 feet to the point of beginning, except the south 40 feet thereof and the east 15 feet thereof for road purposes.

2. The Buyer hereby agrees, as consideration for the conveyance to it of the above-described real property, to construct the following improvements on Seller's property located west of the above described sale parcel:

a. Approximately 990 lineal feet of five foot high wrought iron fence, located just west of the west property line of the sale parcel, commencing at the south line of the sale parcel and continuing north.

b. Approximately 680 lineal feet of eight foot high chain link fencing commencing at the northwest corner of the sale parcel and continuing north along the east property line of Seller's adjacent property approximately 264 feet and then east approximately 416 feet to the existing fence.

c. A 10 foot-wide concrete path from the parking area on Seller's property northeasterly along the lake on Seller's property.

d. Two benches on pads, picnic tables on pads and trash receptacles on pads to be located along the path referenced in c. above.

All of the above improvements shall be located approximately as shown on the attached Exhibit A, attached here to.

3. Buyer shall donate Seventeen Thousand Dollars and Zero Cents (\$17,000.00) to the City of Wichita Parks and Recreation Department. Said donation shall be used by the Parks and Recreation Department to acquire a floating fishing dock or other such improvements as deemed desirable to enable the public to utilize the lake.

4. Seller and Buyer agree to convey title in and to the above-described real property, subject to easements, restrictions and special assessments of record, if any, acceptable to the Buyer. In the event an Owners title insurance policy is furnished, the cost of the commitment to insure and the title insurance policy will be paid equally by Buyer and Seller.
5. A duly executed copy of this Agreement shall be delivered to the parties hereto.
6. It is further agreed by and between the parties hereto that all taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.
7. The Seller further agrees to convey the above-described premises in the same condition as it is now, reasonable wear and tear excepted.
8. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.
9. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before January 31, 2014.
10. Possession to be given to Buyer at closing
11. Closing costs shall be paid 50% by Buyer and 50% by Seller.
12. Buyer shall commission and pay for a survey satisfactory to Buyer to determine the exact size and legal description of the sale parcel.
13. The parties covenant and agree that except for closing, title insurance, survey and commissions referenced elsewhere herein, each is solely responsible for the payment of any fee for brokerage, technical or other professional services relating to the execution and performance of this Agreement incurred by such party.
14. Seller makes no warranty or guarantee as to the suitability of the real property proposed for trade for the intended use of Buyer. Therefore, Buyer covenants and agrees that Buyer at Buyer's own expense, shall examine the real property in order to determine such suitability including but not limited to:
 - A. Soils data and geology, drainage, hydrology and topographical features that would affect any present or future intended use;
 - B. The presence or absence of any contamination by any hazardous substance;
 - C. The quality and quantity of water available by on-site water wells, and the availability of a permit or permits therefore;
 - D. The nature, extent, and cost of public utilities needed to serve all or a portion of such real property;
 - E. The extent and cost of compliance with subdivision regulations, building codes and other applicable rules and regulations involving public improvements, private

- improvements, access, building setbacks, public dedications, platting and replatting requirements of such real property;
- F. The nature and extent of zoning and subdivision statutes, laws, ordinances and regulations affecting the present use, and the ease or difficulty involved in the zone-change and subdivision approval procedures necessary or desirable to allow for the Buyer's intended use or uses.
15. Buyer also covenants and agrees that Buyer, his agents, successors and assigns any future use of the property as described above for the following uses shall be prohibited:
- A. Adult Book and Video Stores
 - B. Community Correctional Facilities
 - C. Half-way Houses
 - D. Drug or Alcohol Rehabilitation Facilities
 - E. Multi-game, Casino-style Gambling Facilities
 - F. New or Used Car Sales
 - G. Commercial Billboards
16. The covenants and agreements contained in Paragraphs 13 and 14 shall survive the closing of the sale intended hereby, and they shall bind the buyer as fully after the sale as they do before.
17. Buyer hereby agrees; a) Buyer is accepting the subject property on an "AS IS" basis and in "AS IS" condition; and that Buyer's decision to enter into this Agreement and any future decisions it may make with regard to the property have been and will be made based on its own inspections. Buyer acknowledges that no representations or warranties as to character, quality, value, or condition have been made by any of the brokers or agents involved, and also agrees not to make any claim against the Seller or the brokers involved.
18. The real property proposed for sale is currently vacant. Buyer intends to redevelop the property with residential housing and related uses. If the Buyer fails to initiate development of the property for said use within twenty-four (24) months of the date of closing, the Seller shall have the right, at its sole discretion, to purchase the real property at the same price for which the Seller sells said property pursuant to this Agreement.

WITNESS OUR HANDS AND SEALS the day and year first above written.

BUYER
Angel Fire LLC

SELLER
By Direction of the City Council

Mike Brand, Managing Member

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Job Access and Reverse Commute (JARC) and New Freedom Contracts

INITIATED BY: Wichita Area Metropolitan Planning Organization (WAMPO)

AGENDA: City Council (Consent)

Recommendation: Approve the contracts.

Background: WAMPO is the designated recipient for the Federal Job Access and Reverse Commute (JARC) and New Freedom funding programs. As such, WAMPO awards these funds to eligible organizations through a competitive process and administers the program for the greater Wichita area.

The most recent awarding process was carried out in 2013. WAMPO held an application period from June 18 to July 12, 2013, in which a total of eight applications were received for consideration of funding (three JARC and five New Freedom). A total of five projects were recommended to the WAMPO Transportation Policy Body (TPB), WAMPO's governing body, for funding by the JARC and New Freedom Advisory Group. On September 10, 2013, the TPB approved the JARC and New Freedom Advisory Group's recommendation of projects to fund. A total of \$381,978 (\$234,990 in JARC funding and \$146,988 in New Freedom funding) was awarded to four transit/paratransit providers for five projects.

Analysis: WAMPO's awarding of these funds and subsequent contracts meets WAMPO's obligations under its designated recipient status for the JARC and New Freedom funding programs. These projects meet the requirements of the JARC and New Freedom programs. The JARC and New Freedom programs provide funding for transit and paratransit providers to provide services that go above and beyond the minimum requirements of the Americans with Disabilities Act of 1990 (ADA) and to provide services that transport low income, elderly, and minority individuals to and from jobs.

Financial Consideration: The City of Wichita is the fiscal agent for WAMPO. As such, WAMPO is requesting the City approve these contracts to allow WAMPO to carry out its designated recipient obligations. These funds are expected to be reimbursed back to the City of Wichita through WAMPO's JARC and New Freedom funds.

Legal Consideration: WAMPO's legal counsel has reviewed and approved these contracts as to form.

Recommendation/Actions: It is recommended that the City Council approve the JARC and New Freedom contracts with the awarded sub-recipients.

Attachment: Sub-recipient contracts for Episcopal Social Services, the Breakthrough Club of Sedgwick County, Mental Health Association of South Central Kansas, and Wichita Transit (2 separate agreements).

AGREEMENT FOR 49 U.S.C. § 5316 Job Access Reverse Commute (JARC) Funds

**Episcopal Social Services
Transportation for Employment
JARC Grant Agreement (CFDA 20.516)
Project Number JARC-13-001**

THIS AGREEMENT made and entered into this 1st day of November, 2013, by and between the Wichita Area Metropolitan Planning Organization, hereinafter referred to as “**WAMPO**”, and Episcopal Social Services, hereinafter referred to as the “**SUB-RECIPIENT**”, acting by and through Barbara Andres its duly authorized representative, whose office is located at 1010 N. Main, Wichita, KS 67201 and the **SUB-RECIPIENT** are collectively referred to as the “**PARTIES**”.

INTRODUCTION

The 49 U.S.C. § 5316 (Job Access Reverse Commute program) of the Safe Accountable Flexible and Efficient Transportation Act, a Legacy for Users (SAFETEA-LU), hereinafter referred to as the “**ACT**”, provides in part, for operating grants to eligible applicants for the specific purpose of assisting them in providing transportation to and from work activities for the general public living in rural and non-urbanized (less than 50,000 population) areas and urbanized (greater than 50,000 population) areas. The 49 U.S.C. § 5316 projects may include the transportation of rural and non-urbanized area residents to and from work activities in the urbanized areas. For this Agreement, a general public transportation provider shall provide transportation activities as required by U.S.C. § 5316.

The Governor of the State of Kansas in accordance with a request by the Federal Administration, hereinafter referred to as “**FTA**”, has designated **WAMPO** as the designated recipient of U.S.C. § 5316 funds and to evaluate, select projects, and coordinate grant applications.

The **SUB-RECIPIENT** desires to apply, secure, and utilize grant funds for the transportation needs of persons within the Wichita Urbanized Area. **WAMPO** is willing, subject to the terms of this Agreement, to provide financial assistance to the **SUB-RECIPIENT** for the undertaking of a transportation project for the general public, hereinafter referred to as “**PROJECT**”. The **SUB-RECIPIENT** expressed an interest in sponsoring the **PROJECT** within the Wichita Urbanized Area. The **SUB-RECIPIENT** has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including local private operators.

The **PARTIES**, in consideration of the mutual covenants herein set forth, agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of the **PROJECT** by the **SUB-RECIPIENT**. The **PARTIES** mutually agree the Agreement contains the terms, conditions, and mutual understandings of the **PARTIES** as to the manner in which the funding for operating expenses of the **PROJECT** will be undertaken and completed.

Section 2. Administration. **WAMPO** will serve as the administer of federal funds for this **PROJECT**.

Section 3. Scope of the PROJECT. The **SUB-RECIPIENT** shall undertake and complete the **PROJECT** in accordance with the terms and conditions of this Agreement and the **PROJECT** application, which is hereby incorporated in the Agreement and made a part thereof.

Under the direction of the Agreement and the **PROJECT** application, the **SUB-RECIPIENT** shall provide for the **PROJECT** under the following guidelines:

[1]

WAMPO – Episcopal Social Services
JARC Project Agreement
October 2013

- A. The **PROJECT** will be performed within the **SUB-RECIPIENTS** service area.
- B. The **PROJECTS** will provide transportation for the elderly, persons with disabilities, and the general public to and from work activities within the **SUB-RECIPIENT'S** area.
- C. The **SUB-RECIPIENT** will provide for the operation and management of the **PROJECT** in accordance with Exhibit G – Project Operating Budget, which is attached hereto and incorporated herein.
- D. The **SUB-RECIPIENT** shall advise WAMPO in writing of any changes in the **PROJECT**.
- E. The properties and policies for the **PROJECT** shall provide for totally accessible transportation for the elderly and the disabled to and from work activities for the duration of the project.

Section 4. Contractual Provisions. The provisions and assurances found in the approved 49 U.S.C. § 5316 **PROJECT** application submitted by the **SUB-RECIPIENT** are hereby incorporated and made a part hereof.

Section 5. Cost of Project, Funding Responsibility and Payment. The total cost for the **PROJECT** is estimated to be \$23,658 of which \$11,829 is reimbursable by **WAMPO**. The remaining \$11,829 of the cost will be provided by the **SUB-RECIPIENT**. These figures are based upon a matching ratio of 50 percent federal and 50 percent local funds for operating expenses. See Exhibit G – Project Operating Budget for the responsibilities of the **SUB-RECIPIENT**.

As described in **Section 3. Scope of the PROJECT** of this Agreement, the **SUB-RECIPIENT** will receive reimbursement from **WAMPO** for actual expenses incurred by the **SUB-RECIPIENT**, but not to exceed the amounts listed in Exhibit G – Project Operating Budget which is hereby incorporated into this Agreement.

Any **PROJECT** income derived from the **PROJECT** will be used to reduce the operating costs prior to submittal of reimbursable costs to **WAMPO**. **PROJECT** costs referred to in this Agreement shall be comprised of the allowable direct and indirect costs incidental to the performance to be determined in accordance with the standards set forth in the Code of Federal Regulations, 41 CFR 1-15.705 and 1-15.706 which are incorporated herein by reference insofar as they are applicable.

Upon receipt of the Monthly Ridership Report and the billing invoice, **WAMPO** will reimburse allowable costs as requested by the **SUB-RECIPIENT**. Reimbursement of any cost pursuant to this section shall not constitute a final determination by **WAMPO** of the eligibility of such costs and shall not constitute a waiver of any violation of the terms of this Agreement committed by the **SUB-RECIPIENT**.

Payment of reimbursable costs, as set forth in this section, is conditioned upon receipt of 49 U.S.C. § 5316 Funds by **WAMPO** for the **PROJECT** costs.

It is agreed and understood by and between the parties that any funds expended by the **SUB-RECIPIENT** in violation of **WAMPO**, local, state and/or federal laws, rules, regulations, standards, principles, policies, or the provisions of this Agreement are disallowable. In the event that such disallowable expenditures are deemed to have been reimbursed, **WAMPO** shall upon written notification to the **SUB-RECIPIENT** request adjustment or repayment of such disallowed expenditures. **SUB-RECIPIENT** shall make such adjustment or repayment within thirty (30) days from receipt of said notification. Funds declared to be provided for ineligible expenditures will be returned to **WAMPO** within thirty (30) days of determination and request for payment. **WAMPO** may withhold any payments to the **SUB-RECIPIENT** for the purposes of set off until such time as any disallowed cost is repaid.

Section 6. Local Matching Funds for Support of the PROJECT. The **SUB-RECIPIENT** shall maintain the local funding support for the operation of transportation service at the same or increased level even if there is an increase of Federal or State assistance. If any of the local match support (i.e. County, State, or Federal funds) is pulled out of a **PROJECT**, the **FTA** funds being provided in this Agreement will be withdrawn from that **PROJECT**.

Section 7. Third Party Agreement. The **SUB-RECIPIENT** shall not execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 8. Period of Performance. The **SUB-RECIPIENT** shall commence implementation of the **PROJECT** upon execution of this Agreement and upon receipt of a written "Notice to Proceed" issued by **WAMPO**. The **SUB-RECIPIENT** shall prosecute the work outlined herein to completion no later than One Year, Six Months (18 months) following the date of the Notice to Proceed. The **SUB-RECIPIENT** has until July 1st following the termination of the Agreement to seek reimbursement. All requests for reimbursement should be submitted to **WAMPO** no later than July 1st following the end of the Agreement. After that date, any unclaimed or unused funds will be retained by **WAMPO**. No funds will be carried over.

Section 9. Dun & Bradstreet. The **SUB-RECIPIENT** will obtain a D-U-N-S number (Dun & Bradstreet Number). Use the following link: http://www.dnb.com/us/duns_update/.

Section 10. System for Award Management. The **SUB-RECIPIENT** will maintain current registrations with the System for Award Management (SAM) (www.sam.gov) at all times during which they have active federal awards. This is the Official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS.

Section 11. Audit. The **SUB-RECIPIENT** shall permit **WAMPO's** authorized representatives, the **FTA**, and the United States Department of Transportation (USDOT) to inspect all of the **SUB-RECIPIENT's** equipment, the books, records, and accounts of the **SUB-RECIPIENT** pertaining to the **PROJECT**. The **SUB-RECIPIENT** agrees the required financial and compliance audit as required by **WAMPO** will be completed within the prescribed audit reporting cycle. Local governments shall comply with SAFETA-LU, OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations".

Section 12. Employment of WAMPO's Employees. The **SUB-RECIPIENT** will not, without written permission from **WAMPO**, engage the services of any person or persons in the employment of **WAMPO** for any work required by the terms of this Agreement.

Section 13. Ownership of Data. All reports and documents pertaining to the **PROJECT** mentioned herein shall be prepared in accordance with **WAMPO's** standard practice and shall become the property of **WAMPO** upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their further use.

Section 14. Indemnification. The **SUB-RECIPIENT** will defend, indemnify, hold harmless, and save **WAMPO** and its authorized representatives and **FTA** from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions of performance of this Agreement, any contract entered into under this Agreement, or the operation of the vehicles described herein by the **SUB-RECIPIENT**, the **SUB-RECIPIENT's** employees, agents, or subcontractors.

Section 15. Covenant Against Contingent Fees. The **SUB-RECIPIENT** warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the

SUB-RECIPIENT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **SUB-RECIPIENT**, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WAMPO shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, as stated in Exhibit D, Certification of Provider and Certification of **WAMPO**, which is incorporated in this Agreement and made a part thereof.

Section 16. Changes to Agreement. No changes to this Agreement will be allowed without prior written approval by **WAMPO**. To be effective, a revision in this Agreement shall be made by an amendment to this Agreement.

Section 17. Records and Reports.

- A. Establish and Maintain Accounting Records:** The **SUB-RECIPIENT** shall establish and maintain a separate account for the **PROJECT**, either independently or within its existing accounting system, to be known as the **PROJECT** account. The **SUB-RECIPIENT** agrees to keep detailed and accurate records of all labor, material, supplies, incidentals, and any other necessary costs involved in the **PROJECT**.
- B. Retention of Records:** The **SUB-RECIPIENT** shall be required to maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at their office at all reasonable times during the period of Agreement performance and for five (5) years from the date of the close of this Agreement as delineated in the **Notice to Proceed** letter. Such accounting records and other evidence pertaining to the costs incurred shall be made available for inspection by **WAMPO**, **FTA**, **USDOT**, or their authorized representatives, and copies thereof shall be furnished if requested.
- C. Reports:** The **SUB-RECIPIENT** shall advise **WAMPO** regarding the progress of the **PROJECT** at such times and in such a manner as **WAMPO** may require, including, but not limited to meetings, quarterly reports, and expenditure reports. The **SUB-RECIPIENT** shall submit to **WAMPO** such financial statements, data, records, contracts, and other documents related to the **PROJECT** as may be deemed necessary by **WAMPO**.

Section 18. Termination of Agreement. **WAMPO** has the right to terminate this Agreement by giving thirty (30) days written notice in the event **WAMPO** determines the **PROJECT** should be abandoned or indefinitely postponed; provided, however, in any case, the **SUB-RECIPIENT** shall be paid the amount due for their services rendered by the operators of the **PROJECT** up to the time of termination on the basis of the provisions of this Agreement.

WAMPO has the right to terminate this Agreement at any time, upon written notice to the **SUB-RECIPIENT**, in the event the **SUB-RECIPIENT** fails to comply with all the terms and provisions of this Agreement. The **SUB-RECIPIENT** shall be paid for expenses judged reasonable for the services rendered to the date of termination; provided in the event of termination of this Agreement, the **SUB-RECIPIENT** shall not be paid more than that which would be received under the terms of this Agreement for that portion of services rendered to the date of termination.

Either party may terminate this Agreement for cause, provided written notification is received by the other party thirty (30) days prior to the proposed termination date. In the event of termination by **WAMPO**, the **SUB-RECIPIENT** shall only be paid for all costs and uncancelable obligations incurred prior to the date of termination on the basis of the provisions of this Agreement.

The Agreement's termination shall not relieve the **SUB-RECIPIENT** of any of its obligation to **WAMPO** existing at the time of expiration, or terminate those obligations of the **SUB-RECIPIENT**, which, by their nature, survive the termination of this Agreement.

Section 19. Noncompliance with PROJECT's Application and Program. The **SUB-RECIPIENT** shall be in noncompliance with either the terms of this Agreement or each **PROJECT** application if the **SUB-RECIPIENT** misuses a vehicle. Misuse includes, but is not limited to, the following:

- A. Vehicles used for agency administrative functions, such as staff use to attend meetings, going to the bank or post office, etc.
- B. The **SUB-RECIPIENT** fails to label vehicles properly.

In the event of noncompliance by the **SUB-RECIPIENT**, **WAMPO** shall not make any payments during the term of noncompliance. The **SUB-RECIPIENT** agrees payment is due from **WAMPO** for a **PROJECT** only during the time the **PROJECT** is in compliance. Any controversy arising out of what constitutes the period of noncompliance shall be determined by **WAMPO**.

Section 20. Compliance. The **SUB-RECIPIENT** shall comply with all federal, state, and local laws, ordinances, resolutions, rules, regulations, standards, principles, policies and procedures in the implementation of the transportation service provided for in this Agreement. The **SUB-RECIPIENT** agrees to comply with all terms, provisions, and conditions which **WAMPO** is required to comply with pursuant to **WAMPO's** agreements with the **FTA**. Said terms, provisions, and conditions, including all future additions and amendments thereto, are hereby incorporated herein.

Section 21. Responsibility to Employees. The **SUB-RECIPIENT** accepts full responsibility for providing worker's compensation coverage and for payment of unemployment insurance, and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for his or her employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless, **WAMPO** for the same.

Section 22. Equal Employment Opportunity. In connection with the execution of this contract, the **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disability, or national origin. The **SUB-RECIPIENT** shall take affirmative action to insure applicants are employed, and employees are treated during this employment, without regard to race, religion, color, age, sex, disability, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.

Section 23. Cooperation and Coordination of Transportation. The **SUB-RECIPIENT** will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and Paratransit operators and social service agencies capable of purchasing service. In connection with the performance of the **PROJECT**, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographical area.

Section 24. SUB-RECIPIENT's Capabilities. The **SUB-RECIPIENT** possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the 49 U.S.C. § 5316 program and to receive and disburse federal and state funds.

Section 25. Matching Share for the PROJECT. The **SUB-RECIPIENT** agrees the designated combination of federal, state, local, private and/or in-kind funding sources has been or will be committed to provide the required matching share for the **PROJECT**.

Section 26. Civil Rights Act of 1964. The **SUB-RECIPIENT** will comply with all the requirements imposed by the Title VI and Title VII of the Civil Rights Act of 1964 (78 Sta. 252), the Regulations of **USDOT** issued thereunder (49 CFR 27, Subpart A), and the assurance by the **WAMPO** pursuant thereto. (See Exhibit E which is incorporated herein).

Section 27. Section 504 – Rehabilitation Act of 1973. The **SUB-RECIPIENT** will comply with all requirements imposed by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Regulations of USDOT issued thereunder (49 CFR 27), and the assurances by the **WAMPO** pursuant thereto.

Section 28. Disadvantaged Business. In connection with the performance of this Agreement, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the maximum utilization of disadvantaged businesses and will use its best efforts to insure disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. The **SUB-RECIPIENT** will comply with the statements in 49 CFR 23.43, Subsections (a) and (b).

Section 29. Interest of Members of or Delegates to Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 30. Prohibited Interest. No member, officer, or employee of the **SUB-RECIPIENT** during their tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 31. Labor Protection. The **SUB-RECIPIENT** shall undertake, carry out, and complete its transportation needs under the terms and conditions determined the Secretary of the U.S. Department of Labor to be fair and equitable to protect the interests of employees affected by the **SUB-RECIPIENT** and meeting the requirements of Section 13 (c) of the Federal Transit Administration Act of 1964, as amended, referenced by the **PROJECT'S** acceptance of Special Section 13 (c) Warranty incorporated into and made part of this Agreement under Section 4, titled Contractual Provisions.

- A. The **PROJECT** shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the **PROJECT**.
- B. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C. The **SUB-RECIPIENT** shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the **PROJECT**.
- D. In the event an employee is terminated or laid off as a result of the **PROJECT**, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the **SUB-RECIPIENT** shall provide or provide for such training or retraining at no cost to the employee.

Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the **PROJECT**, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as

specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971.

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the **PROJECT**" as used herein shall include events occurring in anticipation of, during, and subsequent to the **PROJECT**.

- E. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the **SUB-RECIPIENT**, their employees, and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- F. The **SUB-RECIPIENT** agrees any controversy respecting the **PROJECT'S** effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- G. The **SUB-RECIPIENT** shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of decisions called for in the preceding paragraph.
- H. The **SUB-RECIPIENT** will post, in a prominent and accessible place, a notice stating the **SUB-RECIPIENT** is a recipient of Federal assistance under the **FTA** and has agreed to comply with the provisions of 49 U.S.C., Section 54333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees.

Section 32. Lobbying. The **SUB-RECIPIENT** certifies, to the best of his or her knowledge and believe:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96).]
- C. The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contract under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

[7]

WAMPO – Episcopal Social Services
JARC Project Agreement
October 2013

U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The **SUB-RECIPIENT** hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **SUB-RECIPIENT** understands and agrees the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Section 33. Program Fraud and False or Fraudulent Statements or Related Acts. The **SUB-RECIPIENT** acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR 31, apply to its actions pertaining to each **PROJECT**. Upon execution of the underlying Agreement, the **SUB-RECIPIENT** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the **FTA** assisted **PROJECT** for which this contract work is being performed. In addition to other penalties that may be applicable, the **SUB-RECIPIENT** further acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties for the Program Fraud Civil Remedies Act of 1986 on the **SUB-RECIPIENT** to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** also acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project financed in whole or in part with Federal assistance originally awarded by **FTA** under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **SUB-RECIPIENT**, to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by **FTA**. It is further agreed the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 34. Federal Changes. The **SUB-RECIPIENT** shall at all times comply with all applicable **FTA** regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form **FTA** MA) between the **SUB-RECIPIENT** and **FTA**, as they may be amended or promulgated from time to time during the term of this Agreement. The **SUB-RECIPIENT'S** failure to so comply shall constitute a material breach of this Agreement.

Section 35. Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in **FTA** Circular 4220.1D, dated April 15, 1996, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all **FTA** mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **SUB-RECIPIENT** shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause the **SUB-RECIPIENT** to be in violation of the **FTA** terms and conditions.

Section 36. Buy America. The **SUB-RECIPIENT** agrees to comply with 49 U.S.C. § 5323(j) and 49 CFR 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in **FTA**-funded projects are produced in the United States, unless a waiver has been granted by **FTA** or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements

for rolling stock are set out in 49 U.S.C. § 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content.

Section 37. Disputes. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of **WAMPO** and delivered by e-mail to the **SUB-RECIPIENT**. This decision shall be final and conclusive unless within five (5) business days from the date of delivery, the **SUB-RECIPIENT** delivers a written appeal to **WAMPO**. In connection with any such appeal, the **SUB-RECIPIENT** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of **WAMPO** shall be binding upon the **SUB-RECIPIENT** and the **SUB-RECIPIENT** shall abide by the decision.

- A. Performance During Dispute:** Unless otherwise directed by **WAMPO**, the **SUB-RECIPIENT** shall continue performance under this Agreement while matters in dispute are being resolved.
- B. Claims for Damages:** Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- C. Rights and Remedies:** The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by **WAMPO** or **SUB-RECIPIENT** shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as many be specifically agreed in writing.

Section 38. \$100,000 Threshold. The **SUB-RECIPIENT** also agrees to include these following requirements in each agreement that totals may exceed \$100,000 financed in whole or in part with Federal assistance provided by **FTA**:

- A. Clean Air:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn, report each violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- B. Clean Water:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn report violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- C. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – (Lower Tier Covered Transaction):** The **SUB-RECIPIENT** certifies, by submission of this Agreement, neither it nor its “principals” [as defined by 49 CFR 29.105] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the **SUB-RECIPIENT** should be unable to certify to the statements in this certification, the **SUB-RECIPIENT** shall attach an explanation to this submitted Agreement.

itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 40. Contractual Provisions Attachment. The provisions found in Exhibit B Contractual Provisions Attachment, are hereby incorporated in this Agreement and made a part thereof.

Section 41. Master Agreement. The Parties to this Agreement agree the standard terms and agreements between the **FTA** and **WAMPO**, commonly referred to as "Master Agreement", as amended from time to time, are hereby incorporated into this Agreement and made a part thereof.

Section 42. Successors and Assigns. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon **WAMPO** and the **SUB-RECIPIENT** and their successors and assigns.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS THEREOF: The Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

Episcopal Social Services

**Wichita Area Metropolitan Planning
Organization**

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Date: _____

Date: _____

City of Wichita as Fiscal Agent for WAMPO

Approved as to form:


By: _____

Carl Brewer, City of Wichita Mayor

Attest: _____

John Schlegel, WAMPO Secretary

Date: _____



Austin Parker

Attorney for the Wichita Area
Metropolitan Planning Organization

EXHIBIT A

[10]

WAMPO – Episcopal Social Services
JARC Project Agreement
October 2013

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present Agreement, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present Agreement, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the 1st day of November, 2013.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Finance of the City of Wichita, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, WAMPO may terminate this agreement at the end of its current fiscal year. WAMPO agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this Agreement, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year; to take possession of any equipment provided WAMPO under the Agreement. WAMPO will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by WAMPO, title to any such equipment shall revert to contractor at the end of WAMPO's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the WAMPO nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this Agreement understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such Agreement or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the WAMPO has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the WAMPO shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The WAMPO shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
10. **Insurance:** The WAMPO shall not be required to purchase, any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the WAMPO to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

EXHIBIT C

CERTIFICATION OF COORDINATING SUB-RECIPIENT

I hereby certify that I am the Project Manager and duly authorized representative of Episcopal Social Services, whose address is 1010 N. Main, Wichita, KS 67201 and that neither I nor the above **SUB-RECIPIENT** I here represent has:

- (a) Employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) to solicit or secure this agreement.
- (b) Agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
- (c) Paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to **WAMPO** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)

EXHIBIT D

CERTIFICATION OF WAMPO

I hereby certify that I represent **WAMPO** and that the above **SUB-RECIPIENT** or the **SUB-RECIPIENT's** representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced **SUB-RECIPIENT** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)
WAMPO

By: Kristen Zimmerman
Transportation Planning Manager

Exhibit E

CONTRACTOR ASSURANCE

Title VI Standard Terms And Conditions (Sub-Recipients)

SUB-RECIPIENT understands and agrees that the following terms and conditions apply to the Agreement entered into between **SUB-RECIPIENT** and the Wichita Area Metropolitan Area Planning Department (**WAMPO**). These terms and conditions are made a part of and are hereby incorporated into the Agreement. **SUB-RECIPIENT** further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with **WAMPO**, and that **WAMPO** may take the appropriate action against **SUB-RECIPIENT** to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS

SUB-RECIPIENT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation— Effectuation of Title VI of the Civil Rights Act*;

1.2 The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

1.3 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

1.4 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

1.4.1 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

1.4.2 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

1.4.3 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

1.4.4 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

1.4.5 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

1.4.6 41 CFR Subpart 101 – 119— *Accommodations for the Physically Handicapped*;

1.4.7 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

[17]

WAMPO – Episcopal Social Services
JARC Project Agreement
October 2013

1.4.8 47 CFR Part 64, Subpart F— *Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

1.4.9 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

1.4.10 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

1.4.11 Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

1.5 The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

1.6 The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

1.7 The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

1.8 Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

1.9 Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. §2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Person*; and

1.10 All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES

SUB-RECIPIENT is required to adopt a nondiscrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, or national origin. Specifically, **SUB-RECIPIENT’s** Statement of Nondiscrimination must state: “**SUB-RECIPIENT** assures that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.” **SUB-RECIPIENT’s** Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

2.1 SUB-RECIPIENT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and **SUB-RECIPIENT** must provide a written copy of each to **WAMPO** upon execution of the Agreement. “Publicly post” includes, but is not limited to, posting the documents to **SUB-RECIPIENT’s** website if it has one.

2.2 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

2.3 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

2.4 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to **WAMPO** upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required statement.

2.5 If the **SUB-RECIPIENT** does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to execution of the Agreement. If the **SUB-RECIPIENT** does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then **SUB-RECIPIENT** must use and adhere to the **WAMPO's** non-discrimination policy and statement. A copy of this will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found at **WAMPO's** website at www.wampoks.org.

3.0 TITLE VI PLAN & COMPLAINT PROCEDURE

SUB-RECIPIENT is required to develop and publish a Title VI Plan that includes a Public Participation Plan (PPP), a Limited English Proficiency (LEP) Plan, and a Title VI Complaint Procedure. The Title VI Plan, and its attendant parts, must comply with Federal guidelines regarding such plans.

3.1 SUB-RECIPIENT must provide a copy of its Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure upon execution of the Agreement.

3.2 SUB-RECIPIENT must make the Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure publicly available, which includes posting each of these documents to **SUB-RECIPIENT's** website if it has one, and informing attendees at any public meetings, hearings, or other events related to the work under the Agreement of their rights under Title VI and the procedures for filing a Title VI complaint. **WAMPO** has brochures regarding Title VI rights and its Complaint Procedures that it can make available to **SUB-RECIPIENT** and can be found on **WAMPO's** website at www.wampoks.org.

3.3 If **SUB-RECIPIENT** does not have a federally compliant Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to the execution of the Agreement, and **SUB-RECIPIENT** must use **WAMPO's** Title VI Plan, PPP, LEP Plan, and Complaint Procedure. A copy of each will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found on **WAMPO's** website at www.wampoks.org.

4.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH

If **SUB-RECIPIENT** is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such a way as to not exclude a person from participation on the basis of race, color, national origin, sex, or disability;

informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, or LEP status.

4.1 SUB-RECIPIENT shall submit to WAMPO after every public meeting, engagement, or other community outreach a report that provides the following information: (1) description of the purpose of the event; (2) the time, date, and location of the event; (3) the methods used to advertise the event; (4) identify the building and room where the event was held; (5) note any special accommodations that were requested prior to or during the event; (6) how the attendees were informed of their rights under Title VI including complaint procedures; (7) the number of attendees; (8) the number of minority and women attendees (*note these last figures should be estimates based upon observations and should not be obtained by asking attendees to identify their gender, race, color, or national origin*). WAMPO has a form that it will provide to **SUB-RECIPIENT** upon request that **SUB-RECIPIENT** can use to document its public events.

5.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE AND PRINTED MATERIALS DEVELOPMENT

If **SUB-RECIPIENT** is required to develop or create a website or printed informational materials as part of its work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, **SUB-RECIPIENT** will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. **SUB-RECIPIENT** must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, **SUB-RECIPIENT** must design or create any website so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. **SUB-RECIPIENT's** can find more information about accessibility standards at: <http://www.section508.gov/>.

6.0 TITLE VI REPORTING REQUIREMENTS

SUB-RECIPIENT is required to provide WAMPO the required information listed in 4.1 above in regard to public events. Further, **SUB-RECIPIENT** shall provide **WAMPO** with any additional information that **WAMPO** requests in regard to Title VI compliance. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating **SUB-RECIPIENT's** compliance with Title VI.

7.0 TITLE VI COMPLAINTS

SUB-RECIPIENT must notify **WAMPO** in writing if a Title VI complaint is filed against it, within five (5) business days of **SUB-RECIPIENT** being notified of such complaint. The notification must be provided to WAMPO even if the complaint is not in regard to work that **SUB-RECIPIENT** performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

8.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS

SUB-RECIPIENT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. **SUB-RECIPIENT** can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

9.0 IMPORTANT DBE REQUIREMENTS

SUB-RECIPIENT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

9.1 SUB-RECIPIENT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

9.2 SUB-RECIPIENT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

9.3 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to WAMPO upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required prohibition.

10.0 DBE CONTRACT GOALS

If the project governed by the Agreement includes a DBE contract goal, **SUB-RECIPIENT** understands and agrees that it is required to strictly adhere to the requirements of 49 CFR Part 26 in its efforts to achieve the DBE contract goal.

11.0 SELECTING DBE SUBCONTRACTORS

In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with the Kansas Department of Transportation or the Kansas Department of Commerce. It is the responsibility of **SUB-RECIPIENT** to ensure that the DBE subcontractor it hires is a certified DBE firm.

12.0 TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR

SUB-RECIPIENT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by **WAMPO** as a DBE subcontractor under the Agreement without the prior written consent of **WAMPO**. This includes, but is not limited to, instances where **SUB-RECIPIENT** seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If **SUB-RECIPIENT** wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide **SUB-RECIPIENT** and **WAMPO** the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to **WAMPO**. Only after the DBE subcontractor has been so notified and provided time to object, may **SUB-RECIPIENT** submit its request to terminate or substitute a DBE subcontractor. **SUB-RECIPIENT** must submit its request in writing to WAMPO and fully state the reasons for its request. Unless the request demonstrates that **SUB-RECIPIENT** has good cause to terminate and/or substitute a DBE subcontractor, WAMPO will not concur in **SUB-RECIPIENT's** finding of good cause and will not approve **SUB-RECIPIENT's** request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

[21]

WAMPO – Episcopal Social Services
JARC Project Agreement
October 2013

12.1 When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, **SUB-RECIPIENT** is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE contract goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE contract goal.

13.0 DBE REPORTING REQUIREMENTS

SUB-RECIPIENT is required to submit to **WAMPO**, on a monthly basis, the DBE Participation Form that is attached to the Agreement. **SUB-RECIPIENT** shall also provide any other data relevant to DBE participation on the project upon request by **WAMPO**. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating the information provided by **SUB-RECIPIENT** on its DBE reporting forms.

14.0 FLOW DOWN PROVISIONS

The provisions listed in this Attachment apply to every subcontractor hired by **SUB-RECIPIENT** to perform work under the Agreement. **SUB-RECIPIENT** will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that **SUB-RECIPIENT** enters into under the Agreement.

Exhibit F

TITLE VI ASSURANCES

Title VI Standard Terms And Conditions (Sub-Recipients)

1) Civil Rights

a. Non-Discrimination Assurances

i. As required by federal law, **SUB-RECIPIENT** certifies that it will comply with all applicable federal and state statutes relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e).

ii. **SUB-RECIPIENT** shall comply with the administrative rules of the U.S. Department of Transportation (DOT) relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

iii. **SUB-RECIPIENT** shall not discriminate on grounds of race, color, or national origin of any individual in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. **SUB-RECIPIENT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21. 5 including employment practices.

iv. These assurances concerning nondiscrimination also apply to sub-contractors and supplies of **SUB-RECIPIENT**. These apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment. Each potential sub-contractor or supplier shall be notified by **SUB-RECIPIENT** of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, or national origin of any individual.

v. **SUB-RECIPIENT** assures that, as a condition of receiving reimbursements under this Agreement, that it will not discriminate on grounds of race, color, or national origin of an individual in the performance of any services under this Agreement, including the selection and retention of sub-contractors and the procurement of materials and leases of equipment.

b. **SUB-RECIPIENT** shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

c. The terms of this paragraph shall apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment, and **SUB-RECIPIENT** shall notify each potential subcontractor, supplier, or lessor of **SUB-RECIPIENT's** obligations under this Agreement.

d. Each of the statutes, regulations, or rules, including any later amendments, listed in this paragraph are incorporated by reference and made a part of this Agreement.

e. **SUB-RECIPIENT** shall include these provisions in every sub-contract, including procurement of materials or leases of equipment.

f. Failure to carry out the requirements set forth in this paragraph shall constitute a breach of contract and may result in termination of this Agreement or other remedy that is deemed appropriate.

EXHIBIT G

5316 Project Operating Budget

SUB-RECIPIENT's Name Episcopal Social Services

Budget Year - 11/1/13 – 5/1/15

Personnel:

- Driver _____

Fuel _____

Misc. * _____

Total Operating Cost _____

Project Income _____

Operating Subtotal \$23,658

Local Match \$11,829

5316 Reimbursement \$11,829

Total Project Cost \$23,658

***If misc. expense is reflected in budget, please identify below.**

EXHIBIT H

WAMPO Info Sheet

Date

Project Number
(completed by WAMPO)

SUB-RECIPIENT's Name

Episcopal Social Services

SUB-RECIPIENT's
Federal Tax ID Number
(FEIN)

SUB-RECIPIENT's Dun &
Bradstreet Number
(DUNS)

SAM Expiration Date
(System for Award Management)

SAM Number

SUB-RECIPIENT Mailing
Address

Phone Number

Fax Number

AGREEMENT FOR 49 U.S.C. § 5316 Job Access Reverse Commute (JARC) Funds

**Mental Health Association of South Central Kansas
Supported Employment Transportation Expansion Program
JARC Grant Agreement (CFDA 20.516)
Project Number JARC-13-002**

THIS AGREEMENT made and entered into this 1st day of November, 2013, by and between the Wichita Area Metropolitan Planning Organization, hereinafter referred to as “**WAMPO**”, and Mental Health Association of South Central Kansas, hereinafter referred to as the “**SUB-RECIPIENT**”, acting by and through Bethany Lippe its duly authorized representative, whose office is located at 555 N. Woodlawn, Suite 3105, Wichita, KS 67208. **WAMPO** and the **SUB-RECIPIENT** are collectively referred to as the “**PARTIES**”.

INTRODUCTION

The 49 U.S.C. § 5316 (Job Access Reverse Commute program) of the Safe Accountable Flexible and Efficient Transportation Act, a Legacy for Users (SAFETEA-LU), hereinafter referred to as the “**ACT**”, provides in part, for operating grants to eligible applicants for the specific purpose of assisting them in providing transportation to and from work activities for the general public living in rural and non-urbanized (less than 50,000 population) areas and urbanized (greater than 50,000 population) areas. The 49 U.S.C. § 5316 projects may include the transportation of rural and non-urbanized area residents to and from work activities in the urbanized areas. For this Agreement, a general public transportation provider shall provide transportation activities as required by U.S.C. § 5316.

The Governor of the State of Kansas in accordance with a request by the Federal Administration, hereinafter referred to as “**FTA**”, has designated **WAMPO** as the designated recipient of U.S.C. § 5316 funds and to evaluate, select projects, and coordinate grant applications.

The **SUB-RECIPIENT** desires to apply, secure, and utilize grant funds for the transportation needs of persons within the Wichita Urbanized Area. **WAMPO** is willing, subject to the terms of this Agreement, to provide financial assistance to the **SUB-RECIPIENT** for the undertaking of a transportation project for the general public, hereinafter referred to as “**PROJECT**”. The **SUB-RECIPIENT** expressed an interest in sponsoring the **PROJECT** within the Wichita Urbanized Area. The **SUB-RECIPIENT** has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including local private operators.

The **PARTIES**, in consideration of the mutual covenants herein set forth, agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of the **PROJECT** by the **SUB-RECIPIENT**. The **PARTIES** mutually agree the Agreement contains the terms, conditions, and mutual understandings of the **PARTIES** as to the manner in which the funding for operating expenses of the **PROJECT** will be undertaken and completed.

Section 2. Administration. **WAMPO** will serve as the administer of federal funds for this **PROJECT**.

Section 3. Scope of the PROJECT. The **SUB-RECIPIENT** shall undertake and complete the **PROJECT** in accordance with the terms and conditions of this Agreement and the **PROJECT** application, which is hereby incorporated in the Agreement and made a part thereof.

[1]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

Under the direction of the Agreement and the **PROJECT** application, the **SUB-RECIPIENT** shall provide for the **PROJECT** under the following guidelines:

- A. The **PROJECT** will be performed within the **SUB-RECIPIENTS** service area.
- B. The **PROJECTS** will provide transportation for the elderly, persons with disabilities, and the general public to and from work activities within the **SUB-RECIPIENT'S** area.
- C. The **SUB-RECIPIENT** will provide for the operation and management of the **PROJECT** in accordance with Exhibit G – Project Operating Budget, which is attached hereto and incorporated herein.
- D. The **SUB-RECIPIENT** shall advise WAMPO in writing of any changes in the **PROJECT**.
- E. The properties and policies for the **PROJECT** shall provide for totally accessible transportation for the elderly and the disabled to and from work activities for the duration of the project.

Section 4. Contractual Provisions. The provisions and assurances found in the approved 49 U.S.C. § 5316 **PROJECT** application submitted by the **SUB-RECIPIENT** are hereby incorporated and made a part hereof.

Section 5. Cost of Project, Funding Responsibility and Payment. The total cost for the **PROJECT** is estimated to be \$61,572 of which \$30,786 is reimbursable by **WAMPO**. The remaining \$30,786 of the cost will be provided by the **SUB-RECIPIENT**. These figures are based upon a matching ratio of 50 percent federal and 50 percent local funds for operating expenses. See Exhibit G – Project Operating Budget for the responsibilities of the **SUB-RECIPIENT**.

As described in **Section 3. Scope of the PROJECT** of this Agreement, the **SUB-RECIPIENT** will receive reimbursement from **WAMPO** for actual expenses incurred by the **SUB-RECIPIENT**, but not to exceed the amounts listed in Exhibit G – Project Operating Budget which is hereby incorporated into this Agreement.

Any **PROJECT** income derived from the **PROJECT** will be used to reduce the operating costs prior to submittal of reimbursable costs to **WAMPO**. **PROJECT** costs referred to in this Agreement shall be comprised of the allowable direct and indirect costs incidental to the performance to be determined in accordance with the standards set forth in the Code of Federal Regulations, 41 CFR 1-15.705 and 1-15.706 which are incorporated herein by reference insofar as they are applicable.

Upon receipt of the Monthly Ridership Report and the billing invoice, **WAMPO** will reimburse allowable costs as requested by the **SUB-RECIPIENT**. Reimbursement of any cost pursuant to this section shall not constitute a final determination by **WAMPO** of the eligibility of such costs and shall not constitute a waiver of any violation of the terms of this Agreement committed by the **SUB-RECIPIENT**.

Payment of reimbursable costs, as set forth in this section, is conditioned upon receipt of 49 U.S.C. § 5316 Funds by **WAMPO** for the **PROJECT** costs.

It is agreed and understood by and between the parties that any funds expended by the **SUB-RECIPIENT** in violation of **WAMPO**, local, state and/or federal laws, rules, regulations, standards, principles, policies, or the provisions of this Agreement are disallowable. In the event that such disallowable expenditures are deemed to have been reimbursed, **WAMPO** shall upon written notification to the **SUB-RECIPIENT** request adjustment or repayment of such disallowed expenditures. **SUB-RECIPIENT** shall make such adjustment or repayment within thirty (30) days from receipt of said notification. Funds declared to be provided for ineligible expenditures will be returned to **WAMPO** within thirty (30) days of determination and request for payment. **WAMPO** may withhold any payments to the **SUB-RECIPIENT** for the purposes of set off until such time as any disallowed cost is repaid.

[2]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

Section 6. Local Matching Funds for Support of the PROJECT. The **SUB-RECIPIENT** shall maintain the local funding support for the operation of transportation service at the same or increased level even if there is an increase of Federal or State assistance. If any of the local match support (i.e. County, State, or Federal funds) is pulled out of a **PROJECT**, the **FTA** funds being provided in this Agreement will be withdrawn from that **PROJECT**.

Section 7. Third Party Agreement. The **SUB-RECIPIENT** shall not execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 8. Period of Performance. The **SUB-RECIPIENT** shall commence implementation of the **PROJECT** upon execution of this Agreement and upon receipt of a written "Notice to Proceed" issued by **WAMPO**. The **SUB-RECIPIENT** shall prosecute the work outlined herein to completion no later than One Year, Six Months (18 months) following the date of the Notice to Proceed. The **SUB-RECIPIENT** has until July 1st following the termination of the Agreement to seek reimbursement. All requests for reimbursement should be submitted to **WAMPO** no later than July 1st following the end of the Agreement. After that date, any unclaimed or unused funds will be retained by **WAMPO**. No funds will be carried over.

Section 9. Dun & Bradstreet. The **SUB-RECIPIENT** will obtain a D-U-N-S number (Dun & Bradstreet Number). Use the following link: http://www.dnb.com/us/duns_update/.

Section 10. System for Award Management. The **SUB-RECIPIENT** will maintain current registrations with the System for Award Management (SAM) (www.sam.gov) at all times during which they have active federal awards. This is the Official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS.

Section 11. Audit. The **SUB-RECIPIENT** shall permit **WAMPO's** authorized representatives, the **FTA**, and the United States Department of Transportation (USDOT) to inspect all of the **SUB-RECIPIENT's** equipment, the books, records, and accounts of the **SUB-RECIPIENT** pertaining to the **PROJECT**. The **SUB-RECIPIENT** agrees the required financial and compliance audit as required by **WAMPO** will be completed within the prescribed audit reporting cycle. Local governments shall comply with SAFETA-LU, OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations".

Section 12. Employment of WAMPO's Employees. The **SUB-RECIPIENT** will not, without written permission from **WAMPO**, engage the services of any person or persons in the employment of **WAMPO** for any work required by the terms of this Agreement.

Section 13. Ownership of Data. All reports and documents pertaining to the **PROJECT** mentioned herein shall be prepared in accordance with **WAMPO's** standard practice and shall become the property of **WAMPO** upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their further use.

Section 14. Indemnification. The **SUB-RECIPIENT** will defend, indemnify, hold harmless, and save **WAMPO** and its authorized representatives and **FTA** from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions of performance of this Agreement, any contract entered into under this Agreement, or the operation of the vehicles described herein by the **SUB-RECIPIENT**, the **SUB-RECIPIENT's** employees, agents, or subcontractors.

Section 15. Covenant Against Contingent Fees. The **SUB-RECIPIENT** warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the

[3]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

SUB-RECIPIENT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **SUB-RECIPIENT**, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WAMPO shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, as stated in Exhibit D, Certification of Provider and Certification of **WAMPO**, which is incorporated in this Agreement and made a part thereof.

Section 16. Changes to Agreement. No changes to this Agreement will be allowed without prior written approval by **WAMPO**. To be effective, a revision in this Agreement shall be made by an amendment to this Agreement.

Section 17. Records and Reports.

- A. Establish and Maintain Accounting Records:** The **SUB-RECIPIENT** shall establish and maintain a separate account for the **PROJECT**, either independently or within its existing accounting system, to be known as the **PROJECT** account. The **SUB-RECIPIENT** agrees to keep detailed and accurate records of all labor, material, supplies, incidentals, and any other necessary costs involved in the **PROJECT**.
- B. Retention of Records:** The **SUB-RECIPIENT** shall be required to maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at their office at all reasonable times during the period of Agreement performance and for five (5) years from the date of the close of this Agreement as delineated in the **Notice to Proceed** letter. Such accounting records and other evidence pertaining to the costs incurred shall be made available for inspection by **WAMPO**, **FTA**, **USDOT**, or their authorized representatives, and copies thereof shall be furnished if requested.
- C. Reports:** The **SUB-RECIPIENT** shall advise **WAMPO** regarding the progress of the **PROJECT** at such times and in such a manner as **WAMPO** may require, including, but not limited to meetings, quarterly reports, and expenditure reports. The **SUB-RECIPIENT** shall submit to **WAMPO** such financial statements, data, records, contracts, and other documents related to the **PROJECT** as may be deemed necessary by **WAMPO**.

Section 18. Termination of Agreement. **WAMPO** has the right to terminate this Agreement by giving thirty (30) days written notice in the event **WAMPO** determines the **PROJECT** should be abandoned or indefinitely postponed; provided, however, in any case, the **SUB-RECIPIENT** shall be paid the amount due for their services rendered by the operators of the **PROJECT** up to the time of termination on the basis of the provisions of this Agreement.

WAMPO has the right to terminate this Agreement at any time, upon written notice to the **SUB-RECIPIENT**, in the event the **SUB-RECIPIENT** fails to comply with all the terms and provisions of this Agreement. The **SUB-RECIPIENT** shall be paid for expenses judged reasonable for the services rendered to the date of termination; provided in the event of termination of this Agreement, the **SUB-RECIPIENT** shall not be paid more than that which would be received under the terms of this Agreement for that portion of services rendered to the date of termination.

Either party may terminate this Agreement for cause, provided written notification is received by the other party thirty (30) days prior to the proposed termination date. In the event of termination by **WAMPO**, the **SUB-RECIPIENT** shall only be paid for all costs and uncancelable obligations incurred prior to the date of termination on the basis of the provisions of this Agreement.

[4]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

The Agreement's termination shall not relieve the **SUB-RECIPIENT** of any of its obligation to **WAMPO** existing at the time of expiration, or terminate those obligations of the **SUB-RECIPIENT**, which, by their nature, survive the termination of this Agreement.

Section 19. Noncompliance with PROJECT's Application and Program. The **SUB-RECIPIENT** shall be in noncompliance with either the terms of this Agreement or each **PROJECT** application if the **SUB-RECIPIENT** misuses a vehicle. Misuse includes, but is not limited to, the following:

- A. Vehicles used for agency administrative functions, such as staff use to attend meetings, going to the bank or post office, etc.
- B. The **SUB-RECIPIENT** fails to label vehicles properly.

In the event of noncompliance by the **SUB-RECIPIENT**, **WAMPO** shall not make any payments during the term of noncompliance. The **SUB-RECIPIENT** agrees payment is due from **WAMPO** for a **PROJECT** only during the time the **PROJECT** is in compliance. Any controversy arising out of what constitutes the period of noncompliance shall be determined by **WAMPO**.

Section 20. Compliance. The **SUB-RECIPIENT** shall comply with all federal, state, and local laws, ordinances, resolutions, rules, regulations, standards, principles, policies and procedures in the implementation of the transportation service provided for in this Agreement. The **SUB-RECIPIENT** agrees to comply with all terms, provisions, and conditions which **WAMPO** is required to comply with pursuant to **WAMPO's** agreements with the **FTA**. Said terms, provisions, and conditions, including all future additions and amendments thereto, are hereby incorporated herein.

Section 21. Responsibility to Employees. The **SUB-RECIPIENT** accepts full responsibility for providing worker's compensation coverage and for payment of unemployment insurance, and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for his or her employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless, **WAMPO** for the same.

Section 22. Equal Employment Opportunity. In connection with the execution of this contract, the **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disability, or national origin. The **SUB-RECIPIENT** shall take affirmative action to insure applicants are employed, and employees are treated during this employment, without regard to race, religion, color, age, sex, disability, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.

Section 23. Cooperation and Coordination of Transportation. The **SUB-RECIPIENT** will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and Paratransit operators and social service agencies capable of purchasing service. In connection with the performance of the **PROJECT**, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographical area.

Section 24. SUB-RECIPIENT's Capabilities. The **SUB-RECIPIENT** possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the 49 U.S.C. § 5316 program and to receive and disburse federal and state funds.

Section 25. Matching Share for the PROJECT. The **SUB-RECIPIENT** agrees the designated combination of federal, state, local, private and/or in-kind funding sources has been or will be committed to provide the required matching share for the **PROJECT**.

[5]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

Section 26. Civil Rights Act of 1964. The **SUB-RECIPIENT** will comply with all the requirements imposed by the Title VI and Title VII of the Civil Rights Act of 1964 (78 Sta. 252), the Regulations of **USDOT** issued thereunder (49 CFR 27, Subpart A), and the assurance by the **WAMPO** pursuant thereto. (See Exhibit E which is incorporated herein).

Section 27. Section 504 – Rehabilitation Act of 1973. The **SUB-RECIPIENT** will comply with all requirements imposed by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Regulations of USDOT issued thereunder (49 CFR 27), and the assurances by the **WAMPO** pursuant thereto.

Section 28. Disadvantaged Business. In connection with the performance of this Agreement, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the maximum utilization of disadvantaged businesses and will use its best efforts to insure disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. The **SUB-RECIPIENT** will comply with the statements in 49 CFR 23.43, Subsections (a) and (b).

Section 29. Interest of Members of or Delegates to Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 30. Prohibited Interest. No member, officer, or employee of the **SUB-RECIPIENT** during their tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 31. Labor Protection. The **SUB-RECIPIENT** shall undertake, carry out, and complete its transportation needs under the terms and conditions determined the Secretary of the U.S. Department of Labor to be fair and equitable to protect the interests of employees affected by the **SUB-RECIPIENT** and meeting the requirements of Section 13 (c) of the Federal Transit Administration Act of 1964, as amended, referenced by the **PROJECT'S** acceptance of Special Section 13 (c) Warranty incorporated into and made part of this Agreement under Section 4, titled Contractual Provisions.

- A. The **PROJECT** shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the **PROJECT**.
- B. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C. The **SUB-RECIPIENT** shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the **PROJECT**.
- D. In the event an employee is terminated or laid off as a result of the **PROJECT**, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the **SUB-RECIPIENT** shall provide or provide for such training or retraining at no cost to the employee.

Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the **PROJECT**, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as

[6]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971.

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the **PROJECT**" as used herein shall include events occurring in anticipation of, during, and subsequent to the **PROJECT**.

- E. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the **SUB-RECIPIENT**, their employees, and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- F. The **SUB-RECIPIENT** agrees any controversy respecting the **PROJECT'S** effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- G. The **SUB-RECIPIENT** shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of decisions called for in the preceding paragraph.
- H. The **SUB-RECIPIENT** will post, in a prominent and accessible place, a notice stating the **SUB-RECIPIENT** is a recipient of Federal assistance under the **FTA** and has agreed to comply with the provisions of 49 U.S.C., Section 54333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees.

Section 32. Lobbying. The **SUB-RECIPIENT** certifies, to the best of his or her knowledge and believe:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96).]
- C. The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contract under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

[7]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The **SUB-RECIPIENT** hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **SUB-RECIPIENT** understands and agrees the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Section 33. Program Fraud and False or Fraudulent Statements or Related Acts. The **SUB-RECIPIENT** acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR 31, apply to its actions pertaining to each **PROJECT**. Upon execution of the underlying Agreement, the **SUB-RECIPIENT** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the **FTA** assisted **PROJECT** for which this contract work is being performed. In addition to other penalties that may be applicable, the **SUB-RECIPIENT** further acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties for the Program Fraud Civil Remedies Act of 1986 on the **SUB-RECIPIENT** to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** also acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project financed in whole or in part with Federal assistance originally awarded by **FTA** under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **SUB-RECIPIENT**, to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by **FTA**. It is further agreed the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 34. Federal Changes. The **SUB-RECIPIENT** shall at all times comply with all applicable **FTA** regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form **FTA** MA) between the **SUB-RECIPIENT** and **FTA**, as they may be amended or promulgated from time to time during the term of this Agreement. The **SUB-RECIPIENT'S** failure to so comply shall constitute a material breach of this Agreement.

Section 35. Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in **FTA** Circular 4220.1D, dated April 15, 1996, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all **FTA** mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **SUB-RECIPIENT** shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause the **SUB-RECIPIENT** to be in violation of the **FTA** terms and conditions.

Section 36. Buy America. The **SUB-RECIPIENT** agrees to comply with 49 U.S.C. § 5323(j) and 49 CFR 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in **FTA**-funded projects are produced in the United States, unless a waiver has been granted by **FTA** or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements

[8]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

for rolling stock are set out in 49 U.S.C. § 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content.

Section 37. Disputes. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of **WAMPO** and delivered by e-mail to the **SUB-RECIPIENT**. This decision shall be final and conclusive unless within five (5) business days from the date of delivery, the **SUB-RECIPIENT** delivers a written appeal to **WAMPO**. In connection with any such appeal, the **SUB-RECIPIENT** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of **WAMPO** shall be binding upon the **SUB-RECIPIENT** and the **SUB-RECIPIENT** shall abide by the decision.

- A. Performance During Dispute:** Unless otherwise directed by **WAMPO**, the **SUB-RECIPIENT** shall continue performance under this Agreement while matters in dispute are being resolved.
- B. Claims for Damages:** Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- C. Rights and Remedies:** The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by **WAMPO** or **SUB-RECIPIENT** shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as many be specifically agreed in writing.

Section 38. \$100,000 Threshold. The **SUB-RECIPIENT** also agrees to include these following requirements in each agreement that totals may exceed \$100,000 financed in whole or in part with Federal assistance provided by **FTA**:

- A. Clean Air:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn, report each violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- B. Clean Water:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn report violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- C. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – (Lower Tier Covered Transaction):** The **SUB-RECIPIENT** certifies, by submission of this Agreement, neither it nor its “principals” [as defined by 49 CFR 29.105] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the **SUB-RECIPIENT** should be unable to certify to the statements in this certification, the **SUB-RECIPIENT** shall attach an explanation to this submitted Agreement.

[9]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 40. Contractual Provisions Attachment. The provisions found in Exhibit B Contractual Provisions Attachment, are hereby incorporated in this Agreement and made a part thereof.

Section 41. Master Agreement. The Parties to this Agreement agree the standard terms and agreements between the **FTA** and **WAMPO**, commonly referred to as "Master Agreement", as amended from time to time, are hereby incorporated into this Agreement and made a part thereof.

Section 42. Successors and Assigns. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon **WAMPO** and the **SUB-RECIPIENT** and their successors and assigns.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS THEREOF: The Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

**Mental Health Association of South Central
Kansas**

**Wichita Area Metropolitan Planning
Organization**

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Date: _____

Date: _____

City of Wichita as Fiscal Agent for WAMPO

Approved as to form:

By: _____

Carl Brewer, City of Wichita Mayor

Attest: _____

John Schlegel, WAMPO Secretary

Date: _____



Austin Parker

Attorney for the Wichita Area
Metropolitan Planning Organization

EXHIBIT A

[10]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present Agreement, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

[11]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present Agreement, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

[12]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

EXHIBIT B

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the 1st day of November, 2013.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Finance of the City of Wichita, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, WAMPO may terminate this agreement at the end of its current fiscal year. WAMPO agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this Agreement, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year; to take possession of any equipment provided WAMPO under the Agreement. WAMPO will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by WAMPO, title to any such equipment shall revert to contractor at the end of WAMPO's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the WAMPO nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this Agreement understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such Agreement or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

[13]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

6. **Acceptance Of Contract:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the WAMPO has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the WAMPO shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The WAMPO shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
10. **Insurance:** The WAMPO shall not be required to purchase, any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the WAMPO to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

EXHIBIT C

CERTIFICATION OF COORDINATING SUB-RECIPIENT

I hereby certify that I am the Project Manager and duly authorized representative of Mental Health Association of South Central Kansas, whose address is 555 N. Woodlawn, Suite 3105, Wichita, KS 67208 and that neither I nor the above **SUB-RECIPIENT** I here represent has:

- (a) Employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) to solicit or secure this agreement.
- (b) Agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
- (c) Paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to **WAMPO** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)

[15]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

EXHIBIT D

CERTIFICATION OF WAMPO

I hereby certify that I represent **WAMPO** and that the above **SUB-RECIPIENT** or the **SUB-RECIPIENT's** representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced **SUB-RECIPIENT** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)
WAMPO

By: Kristen Zimmerman
Transportation Planning Manager

[16]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

Exhibit E

CONTRACTOR ASSURANCE

Title VI Standard Terms And Conditions (Sub-Recipients)

SUB-RECIPIENT understands and agrees that the following terms and conditions apply to the Agreement entered into between **SUB-RECIPIENT** and the Wichita Area Metropolitan Area Planning Department (**WAMPO**). These terms and conditions are made a part of and are hereby incorporated into the Agreement. **SUB-RECIPIENT** further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with **WAMPO**, and that **WAMPO** may take the appropriate action against **SUB-RECIPIENT** to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS

SUB-RECIPIENT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation— Effectuation of Title VI of the Civil Rights Act*;

1.2 The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

1.3 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

1.4 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

1.4.1 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

1.4.2 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

1.4.3 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

1.4.4 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

1.4.5 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

1.4.6 41 CFR Subpart 101 – 119— *Accommodations for the Physically Handicapped*;

1.4.7 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

[17]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

1.4.8 47 CFR Part 64, Subpart F— *Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

1.4.9 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

1.4.10 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

1.4.11 Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

1.5 The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

1.6 The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

1.7 The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

1.8 Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

1.9 Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. §2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Person*; and

1.10 All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES

SUB-RECIPIENT is required to adopt a nondiscrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, or national origin. Specifically, **SUB-RECIPIENT’s** Statement of Nondiscrimination must state: “**SUB-RECIPIENT** assures that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.” **SUB-RECIPIENT’s** Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

2.1 SUB-RECIPIENT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and **SUB-RECIPIENT** must provide a written copy of each to **WAMPO** upon execution of the Agreement. “Publicly post” includes, but is not limited to, posting the documents to **SUB-RECIPIENT’s** website if it has one.

[18]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

2.2 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

2.3 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

2.4 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to **WAMPO** upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required statement.

2.5 If the **SUB-RECIPIENT** does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to execution of the Agreement. If the **SUB-RECIPIENT** does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then **SUB-RECIPIENT** must use and adhere to the **WAMPO's** non-discrimination policy and statement. A copy of this will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found at **WAMPO's** website at www.wampoks.org.

3.0 TITLE VI PLAN & COMPLAINT PROCEDURE

SUB-RECIPIENT is required to develop and publish a Title VI Plan that includes a Public Participation Plan (PPP), a Limited English Proficiency (LEP) Plan, and a Title VI Complaint Procedure. The Title VI Plan, and its attendant parts, must comply with Federal guidelines regarding such plans.

3.1 SUB-RECIPIENT must provide a copy of its Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure upon execution of the Agreement.

3.2 SUB-RECIPIENT must make the Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure publicly available, which includes posting each of these documents to **SUB-RECIPIENT's** website if it has one, and informing attendees at any public meetings, hearings, or other events related to the work under the Agreement of their rights under Title VI and the procedures for filing a Title VI complaint. **WAMPO** has brochures regarding Title VI rights and its Complaint Procedures that it can make available to **SUB-RECIPIENT** and can be found on **WAMPO's** website at www.wampoks.org.

3.3 If **SUB-RECIPIENT** does not have a federally compliant Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to the execution of the Agreement, and **SUB-RECIPIENT** must use **WAMPO's** Title VI Plan, PPP, LEP Plan, and Complaint Procedure. A copy of each will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found on **WAMPO's** website at www.wampoks.org.

4.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH

If **SUB-RECIPIENT** is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such a way as to not exclude a person from participation on the basis of race, color, national origin, sex, or disability;

[19]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, or LEP status.

4.1 SUB-RECIPIENT shall submit to WAMPO after every public meeting, engagement, or other community outreach a report that provides the following information: (1) description of the purpose of the event; (2) the time, date, and location of the event; (3) the methods used to advertise the event; (4) identify the building and room where the event was held; (5) note any special accommodations that were requested prior to or during the event; (6) how the attendees were informed of their rights under Title VI including complaint procedures; (7) the number of attendees; (8) the number of minority and women attendees (*note these last figures should be estimates based upon observations and should not be obtained by asking attendees to identify their gender, race, color, or national origin*). WAMPO has a form that it will provide to **SUB-RECIPIENT** upon request that **SUB-RECIPIENT** can use to document its public events.

5.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE AND PRINTED MATERIALS DEVELOPMENT

If **SUB-RECIPIENT** is required to develop or create a website or printed informational materials as part of its work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, **SUB-RECIPIENT** will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. **SUB-RECIPIENT** must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, **SUB-RECIPIENT** must design or create any website so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. **SUB-RECIPIENT's** can find more information about accessibility standards at: <http://www.section508.gov/>.

6.0 TITLE VI REPORTING REQUIREMENTS

SUB-RECIPIENT is required to provide WAMPO the required information listed in 4.1 above in regard to public events. Further, **SUB-RECIPIENT** shall provide **WAMPO** with any additional information that **WAMPO** requests in regard to Title VI compliance. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating **SUB-RECIPIENT's** compliance with Title VI.

7.0 TITLE VI COMPLAINTS

SUB-RECIPIENT must notify **WAMPO** in writing if a Title VI complaint is filed against it, within five (5) business days of **SUB-RECIPIENT** being notified of such complaint. The notification must be provided to WAMPO even if the complaint is not in regard to work that **SUB-RECIPIENT** performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

8.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS

[20]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

SUB-RECIPIENT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. **SUB-RECIPIENT** can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

9.0 IMPORTANT DBE REQUIREMENTS

SUB-RECIPIENT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

9.1 SUB-RECIPIENT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

9.2 SUB-RECIPIENT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

9.3 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to WAMPO upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required prohibition.

10.0 DBE CONTRACT GOALS

If the project governed by the Agreement includes a DBE contract goal, **SUB-RECIPIENT** understands and agrees that it is required to strictly adhere to the requirements of 49 CFR Part 26 in its efforts to achieve the DBE contract goal.

11.0 SELECTING DBE SUBCONTRACTORS

In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with the Kansas Department of Transportation or the Kansas Department of Commerce. It is the responsibility of **SUB-RECIPIENT** to ensure that the DBE subcontractor it hires is a certified DBE firm.

12.0 TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR

SUB-RECIPIENT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by **WAMPO** as a DBE subcontractor under the Agreement without the prior written consent of **WAMPO**. This includes, but is not limited to, instances where **SUB-RECIPIENT** seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If **SUB-RECIPIENT** wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide **SUB-RECIPIENT** and **WAMPO** the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to **WAMPO**. Only after the DBE subcontractor has been so notified and provided time to object, may **SUB-RECIPIENT** submit its request to terminate or substitute a DBE subcontractor. **SUB-RECIPIENT** must submit its request in writing to WAMPO and fully state the reasons for its request. Unless the request demonstrates that **SUB-RECIPIENT** has good cause to terminate and/or substitute a DBE subcontractor, WAMPO will not concur in **SUB-RECIPIENT's** finding of good cause and will not approve **SUB-RECIPIENT's** request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

[21]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

12.1 When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, **SUB-RECIPIENT** is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE contract goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE contract goal.

13.0 DBE REPORTING REQUIREMENTS

SUB-RECIPIENT is required to submit to **WAMPO**, on a monthly basis, the DBE Participation Form that is attached to the Agreement. **SUB-RECIPIENT** shall also provide any other data relevant to DBE participation on the project upon request by **WAMPO**. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating the information provided by **SUB-RECIPIENT** on its DBE reporting forms.

14.0 FLOW DOWN PROVISIONS

The provisions listed in this Attachment apply to every subcontractor hired by **SUB-RECIPIENT** to perform work under the Agreement. **SUB-RECIPIENT** will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that **SUB-RECIPIENT** enters into under the Agreement.

[22]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

Exhibit F

TITLE VI ASSURANCES

Title VI Standard Terms And Conditions (Sub-Recipients)

1) Civil Rights

a. Non-Discrimination Assurances

i. As required by federal law, **SUB-RECIPIENT** certifies that it will comply with all applicable federal and state statutes relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e).

ii. **SUB-RECIPIENT** shall comply with the administrative rules of the U.S. Department of Transportation (DOT) relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

iii. **SUB-RECIPIENT** shall not discriminate on grounds of race, color, or national origin of any individual in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. **SUB-RECIPIENT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21. 5 including employment practices.

iv. These assurances concerning nondiscrimination also apply to sub-contractors and supplies of **SUB-RECIPIENT**. These apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment. Each potential sub-contractor or supplier shall be notified by **SUB-RECIPIENT** of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, or national origin of any individual.

v. **SUB-RECIPIENT** assures that, as a condition of receiving reimbursements under this Agreement, that it will not discriminate on grounds of race, color, or national origin of an individual in the performance of any services under this Agreement, including the selection and retention of sub-contractors and the procurement of materials and leases of equipment.

b. **SUB-RECIPIENT** shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

c. The terms of this paragraph shall apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment, and **SUB-RECIPIENT** shall notify each potential subcontractor, supplier, or lessor of **SUB-RECIPIENT's** obligations under this Agreement.

d. Each of the statutes, regulations, or rules, including any later amendments, listed in this paragraph are incorporated by reference and made a part of this Agreement.

e. **SUB-RECIPIENT** shall include these provisions in every sub-contract, including procurement of materials or leases of equipment.

[23]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

f. Failure to carry out the requirements set forth in this paragraph shall constitute a breach of contract and may result in termination of this Agreement or other remedy that is deemed appropriate.

[24]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

EXHIBIT G

5316 Project Operating Budget

SUB-RECIPIENT's Name Mental Health Association of South
Central Kansas _____

Budget Year - 11/1/13 – 5/1/15

Personnel:

- Driver _____

Fuel _____

Misc. * _____

Total Operating Cost _____

Project Income _____

Operating Subtotal \$61,572 _____

Local Match \$30,786 _____

5316 Reimbursement \$30,786 _____

Total Project Cost \$61,572 _____

***If misc. expense is reflected in budget, please identify below.**

[25]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

EXHIBIT H

WAMPO Info Sheet

Date

Project Number
(completed by WAMPO)

SUB-RECIPIENT's Name

Mental Health Association of South Central Kansas

SUB-RECIPIENT's
Federal Tax ID Number
(FEIN)

SUB-RECIPIENT's Dun &
Bradstreet Number
(DUNS)

SAM Expiration Date
(System for Award Management)

SAM Number

SUB-RECIPIENT Mailing
Address

Phone Number

Fax Number

[26]

WAMPO – Mental Health Association of South Central Kansas
JARC Project Agreement
October 2013

AGREEMENT FOR 49 U.S.C. § 5316 Job Access Reverse Commute (JARC) Funds

**Wichita Transit
Enhanced Services
JARC Grant Agreement (CFDA 20.516)
Project Number JARC-13-003**

THIS AGREEMENT made and entered into this 1st day of November, 2013, by and between the Wichita Area Metropolitan Planning Organization, hereinafter referred to as “**WAMPO**”, and Wichita Transit, hereinafter referred to as the “**SUB-RECIPIENT**”, acting by and through Steve Spade its duly authorized representative, whose office is located at 777 E. Waterman, Wichita, KS 67202. **WAMPO** and the **SUB-RECIPIENT** are collectively referred to as the “**PARTIES**”.

INTRODUCTION

The 49 U.S.C. § 5316 (Job Access Reverse Commute program) of the Safe Accountable Flexible and Efficient Transportation Act, a Legacy for Users (SAFETEA-LU), hereinafter referred to as the “**ACT**”, provides in part, for operating grants to eligible applicants for the specific purpose of assisting them in providing transportation to and from work activities for the general public living in rural and non-urbanized (less than 50,000 population) areas and urbanized (greater than 50,000 population) areas. The 49 U.S.C. § 5316 projects may include the transportation of rural and non-urbanized area residents to and from work activities in the urbanized areas. For this Agreement, a general public transportation provider shall provide transportation activities as required by U.S.C. § 5316.

The Governor of the State of Kansas in accordance with a request by the Federal Administration, hereinafter referred to as “**FTA**”, has designated **WAMPO** as the designated recipient of U.S.C. § 5316 funds and to evaluate, select projects, and coordinate grant applications.

The **SUB-RECIPIENT** desires to apply, secure, and utilize grant funds for the transportation needs of persons within the Wichita Urbanized Area. **WAMPO** is willing, subject to the terms of this Agreement, to provide financial assistance to the **SUB-RECIPIENT** for the undertaking of a transportation project for the general public, hereinafter referred to as “**PROJECT**”. The **SUB-RECIPIENT** expressed an interest in sponsoring the **PROJECT** within the Wichita Urbanized Area. The **SUB-RECIPIENT** has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including local private operators.

The **PARTIES**, in consideration of the mutual covenants herein set forth, agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of the **PROJECT** by the **SUB-RECIPIENT**. The **PARTIES** mutually agree the Agreement contains the terms, conditions, and mutual understandings of the **PARTIES** as to the manner in which the funding for operating expenses of the **PROJECT** will be undertaken and completed.

Section 2. Administration. **WAMPO** will serve as the administer of federal funds for this **PROJECT**.

Section 3. Scope of the PROJECT. The **SUB-RECIPIENT** shall undertake and complete the **PROJECT** in accordance with the terms and conditions of this Agreement and the **PROJECT** application, which is hereby incorporated in the Agreement and made a part thereof.

Under the direction of the Agreement and the **PROJECT** application, the **SUB-RECIPIENT** shall provide for the **PROJECT** under the following guidelines:

[1]

WAMPO – Wichita Transit
JARC Project Agreement
October 2013

- A. The **PROJECT** will be performed within the **SUB-RECIPIENTS** service area.
- B. The **PROJECTS** will provide transportation for the elderly, persons with disabilities, and the general public to and from work activities within the **SUB-RECIPIENT'S** area.
- C. The **SUB-RECIPIENT** will provide for the operation and management of the **PROJECT** in accordance with Exhibit G – Project Operating Budget, which is attached hereto and incorporated herein.
- D. The **SUB-RECIPIENT** shall advise WAMPO in writing of any changes in the **PROJECT**.
- E. The properties and policies for the **PROJECT** shall provide for totally accessible transportation for the elderly and the disabled to and from work activities for the duration of the project.

Section 4. Contractual Provisions. The provisions and assurances found in the approved 49 U.S.C. § 5316 **PROJECT** application submitted by the **SUB-RECIPIENT** are hereby incorporated and made a part hereof.

Section 5. Cost of Project, Funding Responsibility and Payment. The total cost for the **PROJECT** is estimated to be \$337,752 of which \$168,876 is reimbursable by **WAMPO**. The remaining \$168,876 of the cost will be provided by the **SUB-RECIPIENT**. These figures are based upon a matching ratio of 50 percent federal and 50 percent local funds for operating expenses. See Exhibit G – Project Operating Budget for the responsibilities of the **SUB-RECIPIENT**.

As described in **Section 3. Scope of the PROJECT** of this Agreement, the **SUB-RECIPIENT** will receive reimbursement from **WAMPO** for actual expenses incurred by the **SUB-RECIPIENT**, but not to exceed the amounts listed in Exhibit G – Project Operating Budget which is hereby incorporated into this Agreement.

Any **PROJECT** income derived from the **PROJECT** will be used to reduce the operating costs prior to submittal of reimbursable costs to **WAMPO**. **PROJECT** costs referred to in this Agreement shall be comprised of the allowable direct and indirect costs incidental to the performance to be determined in accordance with the standards set forth in the Code of Federal Regulations, 41 CFR 1-15.705 and 1-15.706 which are incorporated herein by reference insofar as they are applicable.

Upon receipt of the Monthly Ridership Report and the billing invoice, **WAMPO** will reimburse allowable costs as requested by the **SUB-RECIPIENT**. Reimbursement of any cost pursuant to this section shall not constitute a final determination by **WAMPO** of the eligibility of such costs and shall not constitute a waiver of any violation of the terms of this Agreement committed by the **SUB-RECIPIENT**.

Payment of reimbursable costs, as set forth in this section, is conditioned upon receipt of 49 U.S.C. § 5316 Funds by **WAMPO** for the **PROJECT** costs.

It is agreed and understood by and between the parties that any funds expended by the **SUB-RECIPIENT** in violation of **WAMPO**, local, state and/or federal laws, rules, regulations, standards, principles, policies, or the provisions of this Agreement are disallowable. In the event that such disallowable expenditures are deemed to have been reimbursed, **WAMPO** shall upon written notification to the **SUB-RECIPIENT** request adjustment or repayment of such disallowed expenditures. **SUB-RECIPIENT** shall make such adjustment or repayment within thirty (30) days from receipt of said notification. Funds declared to be provided for ineligible expenditures will be returned to **WAMPO** within thirty (30) days of determination and request for payment. **WAMPO** may withhold any payments to the **SUB-RECIPIENT** for the purposes of set off until such time as any disallowed cost is repaid.

Section 6. Local Matching Funds for Support of the PROJECT. The **SUB-RECIPIENT** shall maintain the local funding support for the operation of transportation service at the same or increased level even if there is an increase of Federal or State assistance. If any of the local match support (i.e. County, State, or Federal funds) is pulled out of a **PROJECT**, the **FTA** funds being provided in this Agreement will be withdrawn from that **PROJECT**.

Section 7. Third Party Agreement. The **SUB-RECIPIENT** shall not execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 8. Period of Performance. The **SUB-RECIPIENT** shall commence implementation of the **PROJECT** upon execution of this Agreement and upon receipt of a written "Notice to Proceed" issued by **WAMPO**. The **SUB-RECIPIENT** shall prosecute the work outlined herein to completion no later than One Year, Six Months (18 months) following the date of the Notice to Proceed. The **SUB-RECIPIENT** has until July 1st following the termination of the Agreement to seek reimbursement. All requests for reimbursement should be submitted to **WAMPO** no later than July 1st following the end of the Agreement. After that date, any unclaimed or unused funds will be retained by **WAMPO**. No funds will be carried over.

Section 9. Dun & Bradstreet. The **SUB-RECIPIENT** will obtain a D-U-N-S number (Dun & Bradstreet Number). Use the following link: http://www.dnb.com/us/duns_update/.

Section 10. System for Award Management. The **SUB-RECIPIENT** will maintain current registrations with the System for Award Management (SAM) (www.sam.gov) at all times during which they have active federal awards. This is the Official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS.

Section 11. Audit. The **SUB-RECIPIENT** shall permit **WAMPO's** authorized representatives, the **FTA**, and the United States Department of Transportation (USDOT) to inspect all of the **SUB-RECIPIENT's** equipment, the books, records, and accounts of the **SUB-RECIPIENT** pertaining to the **PROJECT**. The **SUB-RECIPIENT** agrees the required financial and compliance audit as required by **WAMPO** will be completed within the prescribed audit reporting cycle. Local governments shall comply with SAFETA-LU, OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations".

Section 12. Employment of WAMPO's Employees. The **SUB-RECIPIENT** will not, without written permission from **WAMPO**, engage the services of any person or persons in the employment of **WAMPO** for any work required by the terms of this Agreement.

Section 13. Ownership of Data. All reports and documents pertaining to the **PROJECT** mentioned herein shall be prepared in accordance with **WAMPO's** standard practice and shall become the property of **WAMPO** upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their further use.

Section 14. Indemnification. The **SUB-RECIPIENT** will defend, indemnify, hold harmless, and save **WAMPO** and its authorized representatives and **FTA** from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions of performance of this Agreement, any contract entered into under this Agreement, or the operation of the vehicles described herein by the **SUB-RECIPIENT**, the **SUB-RECIPIENT's** employees, agents, or subcontractors.

Section 15. Covenant Against Contingent Fees. The **SUB-RECIPIENT** warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the

SUB-RECIPIENT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **SUB-RECIPIENT**, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WAMPO shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, as stated in Exhibit D, Certification of Provider and Certification of **WAMPO**, which is incorporated in this Agreement and made a part thereof.

Section 16. Changes to Agreement. No changes to this Agreement will be allowed without prior written approval by **WAMPO**. To be effective, a revision in this Agreement shall be made by an amendment to this Agreement.

Section 17. Records and Reports.

- A. Establish and Maintain Accounting Records:** The **SUB-RECIPIENT** shall establish and maintain a separate account for the **PROJECT**, either independently or within its existing accounting system, to be known as the **PROJECT** account. The **SUB-RECIPIENT** agrees to keep detailed and accurate records of all labor, material, supplies, incidentals, and any other necessary costs involved in the **PROJECT**.
- B. Retention of Records:** The **SUB-RECIPIENT** shall be required to maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at their office at all reasonable times during the period of Agreement performance and for five (5) years from the date of the close of this Agreement as delineated in the **Notice to Proceed** letter. Such accounting records and other evidence pertaining to the costs incurred shall be made available for inspection by **WAMPO**, **FTA**, **USDOT**, or their authorized representatives, and copies thereof shall be furnished if requested.
- C. Reports:** The **SUB-RECIPIENT** shall advise **WAMPO** regarding the progress of the **PROJECT** at such times and in such a manner as **WAMPO** may require, including, but not limited to meetings, quarterly reports, and expenditure reports. The **SUB-RECIPIENT** shall submit to **WAMPO** such financial statements, data, records, contracts, and other documents related to the **PROJECT** as may be deemed necessary by **WAMPO**.

Section 18. Termination of Agreement. **WAMPO** has the right to terminate this Agreement by giving thirty (30) days written notice in the event **WAMPO** determines the **PROJECT** should be abandoned or indefinitely postponed; provided, however, in any case, the **SUB-RECIPIENT** shall be paid the amount due for their services rendered by the operators of the **PROJECT** up to the time of termination on the basis of the provisions of this Agreement.

WAMPO has the right to terminate this Agreement at any time, upon written notice to the **SUB-RECIPIENT**, in the event the **SUB-RECIPIENT** fails to comply with all the terms and provisions of this Agreement. The **SUB-RECIPIENT** shall be paid for expenses judged reasonable for the services rendered to the date of termination; provided in the event of termination of this Agreement, the **SUB-RECIPIENT** shall not be paid more than that which would be received under the terms of this Agreement for that portion of services rendered to the date of termination.

Either party may terminate this Agreement for cause, provided written notification is received by the other party thirty (30) days prior to the proposed termination date. In the event of termination by **WAMPO**, the **SUB-RECIPIENT** shall only be paid for all costs and uncancelable obligations incurred prior to the date of termination on the basis of the provisions of this Agreement.

The Agreement's termination shall not relieve the **SUB-RECIPIENT** of any of its obligation to **WAMPO** existing at the time of expiration, or terminate those obligations of the **SUB-RECIPIENT**, which, by their nature, survive the termination of this Agreement.

Section 19. Noncompliance with PROJECT's Application and Program. The **SUB-RECIPIENT** shall be in noncompliance with either the terms of this Agreement or each **PROJECT** application if the **SUB-RECIPIENT** misuses a vehicle. Misuse includes, but is not limited to, the following:

- A. Vehicles used for agency administrative functions, such as staff use to attend meetings, going to the bank or post office, etc.
- B. The **SUB-RECIPIENT** fails to label vehicles properly.

In the event of noncompliance by the **SUB-RECIPIENT**, **WAMPO** shall not make any payments during the term of noncompliance. The **SUB-RECIPIENT** agrees payment is due from **WAMPO** for a **PROJECT** only during the time the **PROJECT** is in compliance. Any controversy arising out of what constitutes the period of noncompliance shall be determined by **WAMPO**.

Section 20. Compliance. The **SUB-RECIPIENT** shall comply with all federal, state, and local laws, ordinances, resolutions, rules, regulations, standards, principles, policies and procedures in the implementation of the transportation service provided for in this Agreement. The **SUB-RECIPIENT** agrees to comply with all terms, provisions, and conditions which **WAMPO** is required to comply with pursuant to **WAMPO's** agreements with the **FTA**. Said terms, provisions, and conditions, including all future additions and amendments thereto, are hereby incorporated herein.

Section 21. Responsibility to Employees. The **SUB-RECIPIENT** accepts full responsibility for providing worker's compensation coverage and for payment of unemployment insurance, and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for his or her employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless, **WAMPO** for the same.

Section 22. Equal Employment Opportunity. In connection with the execution of this contract, the **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disability, or national origin. The **SUB-RECIPIENT** shall take affirmative action to insure applicants are employed, and employees are treated during this employment, without regard to race, religion, color, age, sex, disability, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.

Section 23. Cooperation and Coordination of Transportation. The **SUB-RECIPIENT** will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and Paratransit operators and social service agencies capable of purchasing service. In connection with the performance of the **PROJECT**, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographical area.

Section 24. SUB-RECIPIENT's Capabilities. The **SUB-RECIPIENT** possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the 49 U.S.C. § 5316 program and to receive and disburse federal and state funds.

Section 25. Matching Share for the PROJECT. The **SUB-RECIPIENT** agrees the designated combination of federal, state, local, private and/or in-kind funding sources has been or will be committed to provide the required matching share for the **PROJECT**.

Section 26. Civil Rights Act of 1964. The **SUB-RECIPIENT** will comply with all the requirements imposed by the Title VI and Title VII of the Civil Rights Act of 1964 (78 Sta. 252), the Regulations of **USDOT** issued thereunder (49 CFR 27, Subpart A), and the assurance by the **WAMPO** pursuant thereto. (See Exhibit E which is incorporated herein).

Section 27. Section 504 – Rehabilitation Act of 1973. The **SUB-RECIPIENT** will comply with all requirements imposed by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Regulations of **USDOT** issued thereunder (49 CFR 27), and the assurances by the **WAMPO** pursuant thereto.

Section 28. Disadvantaged Business. In connection with the performance of this Agreement, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the maximum utilization of disadvantaged businesses and will use its best efforts to insure disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. The **SUB-RECIPIENT** will comply with the statements in 49 CFR 23.43, Subsections (a) and (b).

Section 29. Interest of Members of or Delegates to Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 30. Prohibited Interest. No member, officer, or employee of the **SUB-RECIPIENT** during their tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 31. Labor Protection. The **SUB-RECIPIENT** shall undertake, carry out, and complete its transportation needs under the terms and conditions determined the Secretary of the U.S. Department of Labor to be fair and equitable to protect the interests of employees affected by the **SUB-RECIPIENT** and meeting the requirements of Section 13 (c) of the Federal Transit Administration Act of 1964, as amended, referenced by the **PROJECT'S** acceptance of Special Section 13 (c) Warranty incorporated into and made part of this Agreement under Section 4, titled Contractual Provisions.

- A. The **PROJECT** shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the **PROJECT**.
- B. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C. The **SUB-RECIPIENT** shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the **PROJECT**.
- D. In the event an employee is terminated or laid off as a result of the **PROJECT**, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the **SUB-RECIPIENT** shall provide or provide for such training or retraining at no cost to the employee.

Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the **PROJECT**, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as

specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971.

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the **PROJECT**" as used herein shall include events occurring in anticipation of, during, and subsequent to the **PROJECT**.

- E. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the **SUB-RECIPIENT**, their employees, and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- F. The **SUB-RECIPIENT** agrees any controversy respecting the **PROJECT'S** effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- G. The **SUB-RECIPIENT** shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of decisions called for in the preceding paragraph.
- H. The **SUB-RECIPIENT** will post, in a prominent and accessible place, a notice stating the **SUB-RECIPIENT** is a recipient of Federal assistance under the **FTA** and has agreed to comply with the provisions of 49 U.S.C., Section 54333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees.

Section 32. Lobbying. The **SUB-RECIPIENT** certifies, to the best of his or her knowledge and believe:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96).]
- C. The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contract under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

[7]

WAMPO – Wichita Transit
JARC Project Agreement
October 2013

U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The **SUB-RECIPIENT** hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **SUB-RECIPIENT** understands and agrees the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Section 33. Program Fraud and False or Fraudulent Statements or Related Acts. The **SUB-RECIPIENT** acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR 31, apply to its actions pertaining to each **PROJECT**. Upon execution of the underlying Agreement, the **SUB-RECIPIENT** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the **FTA** assisted **PROJECT** for which this contract work is being performed. In addition to other penalties that may be applicable, the **SUB-RECIPIENT** further acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties for the Program Fraud Civil Remedies Act of 1986 on the **SUB-RECIPIENT** to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** also acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project financed in whole or in part with Federal assistance originally awarded by **FTA** under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **SUB-RECIPIENT**, to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by **FTA**. It is further agreed the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 34. Federal Changes. The **SUB-RECIPIENT** shall at all times comply with all applicable **FTA** regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form **FTA** MA) between the **SUB-RECIPIENT** and **FTA**, as they may be amended or promulgated from time to time during the term of this Agreement. The **SUB-RECIPIENT'S** failure to so comply shall constitute a material breach of this Agreement.

Section 35. Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in **FTA** Circular 4220.1D, dated April 15, 1996, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all **FTA** mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **SUB-RECIPIENT** shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause the **SUB-RECIPIENT** to be in violation of the **FTA** terms and conditions.

Section 36. Buy America. The **SUB-RECIPIENT** agrees to comply with 49 U.S.C. § 5323(j) and 49 CFR 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in **FTA**-funded projects are produced in the United States, unless a waiver has been granted by **FTA** or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements

for rolling stock are set out in 49 U.S.C. § 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content.

Section 37. Disputes. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of **WAMPO** and delivered by e-mail to the **SUB-RECIPIENT**. This decision shall be final and conclusive unless within five (5) business days from the date of delivery, the **SUB-RECIPIENT** delivers a written appeal to **WAMPO**. In connection with any such appeal, the **SUB-RECIPIENT** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of **WAMPO** shall be binding upon the **SUB-RECIPIENT** and the **SUB-RECIPIENT** shall abide by the decision.

- A. Performance During Dispute:** Unless otherwise directed by **WAMPO**, the **SUB-RECIPIENT** shall continue performance under this Agreement while matters in dispute are being resolved.
- B. Claims for Damages:** Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- C. Rights and Remedies:** The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by **WAMPO** or **SUB-RECIPIENT** shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as many be specifically agreed in writing.

Section 38. \$100,000 Threshold. The **SUB-RECIPIENT** also agrees to include these following requirements in each agreement that totals may exceed \$100,000 financed in whole or in part with Federal assistance provided by **FTA**:

- A. Clean Air:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn, report each violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- B. Clean Water:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn report violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- C. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – (Lower Tier Covered Transaction):** The **SUB-RECIPIENT** certifies, by submission of this Agreement, neither it nor its “principals” [as defined by 49 CFR 29.105] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the **SUB-RECIPIENT** should be unable to certify to the statements in this certification, the **SUB-RECIPIENT** shall attach an explanation to this submitted Agreement.

Section 39. Contracts Under This Agreement. Unless otherwise authorized in writing by **WAMPO**, the **SUB-RECIPIENT** shall not assign any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 40. Contractual Provisions Attachment. The provisions found in Exhibit B Contractual Provisions Attachment, are hereby incorporated in this Agreement and made a part thereof.

Section 41. Master Agreement. The Parties to this Agreement agree the standard terms and agreements between the **FTA** and **WAMPO**, commonly referred to as "Master Agreement", as amended from time to time, are hereby incorporated into this Agreement and made a part thereof.

Section 42. Successors and Assigns. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon **WAMPO** and the **SUB-RECIPIENT** and their successors and assigns.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS THEREOF: The Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

Wichita Transit

**Wichita Area Metropolitan Planning
Organization**

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Date: _____

Date: _____

City of Wichita as Fiscal Agent for WAMPO

Approved as to form:

By: _____

Carl Brewer, City of Wichita Mayor

Attest: _____

John Schlegel, WAMPO Secretary

Date: _____

Austin Parker

Attorney for the Wichita Area
Metropolitan Planning Organization

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present Agreement, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present Agreement, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the 1st day of November, 2013.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Finance of the City of Wichita, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, WAMPO may terminate this agreement at the end of its current fiscal year. WAMPO agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this Agreement, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year; to take possession of any equipment provided WAMPO under the Agreement. WAMPO will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by WAMPO, title to any such equipment shall revert to contractor at the end of WAMPO's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the WAMPO nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this Agreement understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such Agreement or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the WAMPO has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the WAMPO shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The WAMPO shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
10. **Insurance:** The WAMPO shall not be required to purchase, any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the WAMPO to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

EXHIBIT C

CERTIFICATION OF COORDINATING SUB-RECIPIENT

I hereby certify that I am the Project Manager and duly authorized representative of Wichita Transit, whose address is 777 E. Waterman, Wichita, KS 67202 and that neither I nor the above **SUB-RECIPIENT** I here represent has:

- (a) Employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) to solicit or secure this agreement.
- (b) Agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
- (c) Paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to **WAMPO** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)

EXHIBIT D

CERTIFICATION OF WAMPO

I hereby certify that I represent **WAMPO** and that the above **SUB-RECIPIENT** or the **SUB-RECIPIENT's** representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced **SUB-RECIPIENT** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)
WAMPO

By: Kristen Zimmerman
Transportation Planning Manager

Exhibit E

CONTRACTOR ASSURANCE

Title VI Standard Terms And Conditions (Sub-Recipients)

SUB-RECIPIENT understands and agrees that the following terms and conditions apply to the Agreement entered into between **SUB-RECIPIENT** and the Wichita Area Metropolitan Area Planning Department (**WAMPO**). These terms and conditions are made a part of and are hereby incorporated into the Agreement. **SUB-RECIPIENT** further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with **WAMPO**, and that **WAMPO** may take the appropriate action against **SUB-RECIPIENT** to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS

SUB-RECIPIENT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation— Effectuation of Title VI of the Civil Rights Act*;

1.2 The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

1.3 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

1.4 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

1.4.1 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

1.4.2 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

1.4.3 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

1.4.4 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

1.4.5 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

1.4.6 41 CFR Subpart 101 – 119— *Accommodations for the Physically Handicapped*;

1.4.7 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

[17]

WAMPO – Wichita Transit
JARC Project Agreement
October 2013

1.4.8 47 CFR Part 64, Subpart F— *Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

1.4.9 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

1.4.10 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

1.4.11 Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

1.5 The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

1.6 The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

1.7 The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

1.8 Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

1.9 Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. §2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Person*; and

1.10 All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES

SUB-RECIPIENT is required to adopt a nondiscrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, or national origin. Specifically, **SUB-RECIPIENT’s** Statement of Nondiscrimination must state: “**SUB-RECIPIENT** assures that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.” **SUB-RECIPIENT’s** Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

2.1 SUB-RECIPIENT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and **SUB-RECIPIENT** must provide a written copy of each to **WAMPO** upon execution of the Agreement. “Publicly post” includes, but is not limited to, posting the documents to **SUB-RECIPIENT’s** website if it has one.

2.2 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

2.3 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

2.4 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to **WAMPO** upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required statement.

2.5 If the **SUB-RECIPIENT** does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to execution of the Agreement. If the **SUB-RECIPIENT** does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then **SUB-RECIPIENT** must use and adhere to the **WAMPO's** non-discrimination policy and statement. A copy of this will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found at **WAMPO's** website at www.wampoks.org.

3.0 TITLE VI PLAN & COMPLAINT PROCEDURE

SUB-RECIPIENT is required to develop and publish a Title VI Plan that includes a Public Participation Plan (PPP), a Limited English Proficiency (LEP) Plan, and a Title VI Complaint Procedure. The Title VI Plan, and its attendant parts, must comply with Federal guidelines regarding such plans.

3.1 SUB-RECIPIENT must provide a copy of its Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure upon execution of the Agreement.

3.2 SUB-RECIPIENT must make the Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure publicly available, which includes posting each of these documents to **SUB-RECIPIENT's** website if it has one, and informing attendees at any public meetings, hearings, or other events related to the work under the Agreement of their rights under Title VI and the procedures for filing a Title VI complaint. **WAMPO** has brochures regarding Title VI rights and its Complaint Procedures that it can make available to **SUB-RECIPIENT** and can be found on **WAMPO's** website at www.wampoks.org.

3.3 If **SUB-RECIPIENT** does not have a federally compliant Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to the execution of the Agreement, and **SUB-RECIPIENT** must use **WAMPO's** Title VI Plan, PPP, LEP Plan, and Complaint Procedure. A copy of each will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found on **WAMPO's** website at www.wampoks.org.

4.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH

If **SUB-RECIPIENT** is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such a way as to not exclude a person from participation on the basis of race, color, national origin, sex, or disability;

informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, or LEP status.

4.1 SUB-RECIPIENT shall submit to WAMPO after every public meeting, engagement, or other community outreach a report that provides the following information: (1) description of the purpose of the event; (2) the time, date, and location of the event; (3) the methods used to advertise the event; (4) identify the building and room where the event was held; (5) note any special accommodations that were requested prior to or during the event; (6) how the attendees were informed of their rights under Title VI including complaint procedures; (7) the number of attendees; (8) the number of minority and women attendees (*note these last figures should be estimates based upon observations and should not be obtained by asking attendees to identify their gender, race, color, or national origin*). WAMPO has a form that it will provide to **SUB-RECIPIENT** upon request that **SUB-RECIPIENT** can use to document its public events.

5.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE AND PRINTED MATERIALS DEVELOPMENT

If **SUB-RECIPIENT** is required to develop or create a website or printed informational materials as part of its work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, **SUB-RECIPIENT** will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. **SUB-RECIPIENT** must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, **SUB-RECIPIENT** must design or create any website so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. **SUB-RECIPIENT's** can find more information about accessibility standards at: <http://www.section508.gov/>.

6.0 TITLE VI REPORTING REQUIREMENTS

SUB-RECIPIENT is required to provide WAMPO the required information listed in 4.1 above in regard to public events. Further, **SUB-RECIPIENT** shall provide **WAMPO** with any additional information that **WAMPO** requests in regard to Title VI compliance. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating **SUB-RECIPIENT's** compliance with Title VI.

7.0 TITLE VI COMPLAINTS

SUB-RECIPIENT must notify **WAMPO** in writing if a Title VI complaint is filed against it, within five (5) business days of **SUB-RECIPIENT** being notified of such complaint. The notification must be provided to WAMPO even if the complaint is not in regard to work that **SUB-RECIPIENT** performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

8.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS

SUB-RECIPIENT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. **SUB-RECIPIENT** can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

9.0 IMPORTANT DBE REQUIREMENTS

SUB-RECIPIENT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

9.1 SUB-RECIPIENT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

9.2 SUB-RECIPIENT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

9.3 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to WAMPO upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required prohibition.

10.0 DBE CONTRACT GOALS

If the project governed by the Agreement includes a DBE contract goal, **SUB-RECIPIENT** understands and agrees that it is required to strictly adhere to the requirements of 49 CFR Part 26 in its efforts to achieve the DBE contract goal.

11.0 SELECTING DBE SUBCONTRACTORS

In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with the Kansas Department of Transportation or the Kansas Department of Commerce. It is the responsibility of **SUB-RECIPIENT** to ensure that the DBE subcontractor it hires is a certified DBE firm.

12.0 TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR

SUB-RECIPIENT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by **WAMPO** as a DBE subcontractor under the Agreement without the prior written consent of **WAMPO**. This includes, but is not limited to, instances where **SUB-RECIPIENT** seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If **SUB-RECIPIENT** wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide **SUB-RECIPIENT** and **WAMPO** the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to **WAMPO**. Only after the DBE subcontractor has been so notified and provided time to object, may **SUB-RECIPIENT** submit its request to terminate or substitute a DBE subcontractor. **SUB-RECIPIENT** must submit its request in writing to WAMPO and fully state the reasons for its request. Unless the request demonstrates that **SUB-RECIPIENT** has good cause to terminate and/or substitute a DBE subcontractor, WAMPO will not concur in **SUB-RECIPIENT's** finding of good cause and will not approve **SUB-RECIPIENT's** request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

[21]

WAMPO – Wichita Transit
JARC Project Agreement
October 2013

12.1 When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, **SUB-RECIPIENT** is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE contract goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE contract goal.

13.0 DBE REPORTING REQUIREMENTS

SUB-RECIPIENT is required to submit to **WAMPO**, on a monthly basis, the DBE Participation Form that is attached to the Agreement. **SUB-RECIPIENT** shall also provide any other data relevant to DBE participation on the project upon request by **WAMPO**. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating the information provided by **SUB-RECIPIENT** on its DBE reporting forms.

14.0 FLOW DOWN PROVISIONS

The provisions listed in this Attachment apply to every subcontractor hired by **SUB-RECIPIENT** to perform work under the Agreement. **SUB-RECIPIENT** will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that **SUB-RECIPIENT** enters into under the Agreement.

Exhibit F

TITLE VI ASSURANCES

Title VI Standard Terms And Conditions (Sub-Recipients)

1) Civil Rights

a. Non-Discrimination Assurances

i. As required by federal law, **SUB-RECIPIENT** certifies that it will comply with all applicable federal and state statutes relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e).

ii. **SUB-RECIPIENT** shall comply with the administrative rules of the U.S. Department of Transportation (DOT) relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

iii. **SUB-RECIPIENT** shall not discriminate on grounds of race, color, or national origin of any individual in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. **SUB-RECIPIENT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21. 5 including employment practices.

iv. These assurances concerning nondiscrimination also apply to sub-contractors and supplies of **SUB-RECIPIENT**. These apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment. Each potential sub-contractor or supplier shall be notified by **SUB-RECIPIENT** of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, or national origin of any individual.

v. **SUB-RECIPIENT** assures that, as a condition of receiving reimbursements under this Agreement, that it will not discriminate on grounds of race, color, or national origin of an individual in the performance of any services under this Agreement, including the selection and retention of sub-contractors and the procurement of materials and leases of equipment.

b. **SUB-RECIPIENT** shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

c. The terms of this paragraph shall apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment, and **SUB-RECIPIENT** shall notify each potential subcontractor, supplier, or lessor of **SUB-RECIPIENT's** obligations under this Agreement.

d. Each of the statutes, regulations, or rules, including any later amendments, listed in this paragraph are incorporated by reference and made a part of this Agreement.

e. **SUB-RECIPIENT** shall include these provisions in every sub-contract, including procurement of materials or leases of equipment.

f. Failure to carry out the requirements set forth in this paragraph shall constitute a breach of contract and may result in termination of this Agreement or other remedy that is deemed appropriate.

EXHIBIT G

5316 Project Operating Budget

SUB-RECIPIENT's Name Wichita Transit

Budget Year - 11/1/13 – 5/1/15

Personnel:

- Driver _____

Fuel

Misc. *

Total Operating Cost _____

Project Income

Operating Subtotal \$337,752

Local Match	\$168,876
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5316 Reimbursement	\$168,876
--------------------	-----------

Total Project Cost	\$337,752
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***If misc. expense is reflected in budget, please identify below.**

EXHIBIT H

WAMPO Info Sheet

Date

Project Number
(completed by WAMPO)

SUB-RECIPIENT's Name

Wichita Transit

SUB-RECIPIENT's
Federal Tax ID Number
(FEIN)

SUB-RECIPIENT's Dun &
Bradstreet Number
(DUNS)

SAM Expiration Date
(System for Award Management)

SAM Number

SUB-RECIPIENT Mailing
Address

Phone Number

Fax Number

AGREEMENT FOR 49 U.S.C. § 5317 New Freedom (NF) Funds

<p style="text-align: center;">Breakthrough Club, Inc. Transportation Enhancing Social & Prevocational Services NF Grant Agreement (CFDA 20.521) Project Number NF-13-001</p>

THIS AGREEMENT made and entered into this 1st day of November, 2013, by and between the Wichita Area Metropolitan Planning Organization, hereinafter referred to as “**WAMPO**”, and Breakthrough Club, Inc., hereinafter referred to as the “**SUB-RECIPIENT**”, acting by and through Barbara Andres its duly authorized representative, whose office is located at 1010 N. Main, Wichita, KS 67201. **WAMPO** and the **SUB-RECIPIENT** are collectively referred to as the “**PARTIES**”.

INTRODUCTION

The 49 U.S.C. § 5317 (New Freedom program) of the Safe Accountable Flexible and Efficient Transportation Act, a Legacy for Users (SAFETEA-LU), hereinafter referred to as the “**ACT**”, provides in part, for operating grants to eligible applicants for the specific purpose of assisting them in providing transportation services that go beyond those required by the Americans with Disabilities Act (ADA). This service is for person with disabilities living in rural and non-urbanized (less than 50,000 population) areas and urbanized (greater than 50,000 population) areas. The 49 U.S.C. § 5317 projects may include the transportation of rural and non-urbanized area residents to and from activities in the urbanized areas. For this Agreement, transportation shall be provided as required by U.S.C. § 5317.

The Governor of the State of Kansas in accordance with a request by the Federal Administration, hereinafter referred to as “**FTA**”, has designated **WAMPO** as the designated recipient of U.S.C. § 5317 funds and to evaluate, select projects, and coordinate grant applications.

The **SUB-RECIPIENT** desires to apply, secure, and utilize grant funds for the transportation needs of persons within the Wichita Urbanized Area. **WAMPO** is willing, subject to the terms of this Agreement, to provide financial assistance to the **SUB-RECIPIENT** for the undertaking of a transportation project for the general public, hereinafter referred to as “**PROJECT**”. The **SUB-RECIPIENT** expressed an interest in sponsoring the **PROJECT** within the Wichita Urbanized Area. The **SUB-RECIPIENT** has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including local private operators.

The **PARTIES**, in consideration of the mutual covenants herein set forth, agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of the **PROJECT** by the **SUB-RECIPIENT**. The **PARTIES** mutually agree the Agreement contains the terms, conditions, and mutual understandings of the **PARTIES** as to the manner in which the funding for operating expenses of the **PROJECT** will be undertaken and completed.

Section 2. Administration. **WAMPO** will serve as the administer of federal funds for this **PROJECT**.

Section 3. Scope of the PROJECT. The **SUB-RECIPIENT** shall undertake and complete the **PROJECT** in accordance with the terms and conditions of this Agreement and the **PROJECT** application, which is hereby incorporated in the Agreement and made a part thereof.

Under the direction of the Agreement and the **PROJECT** application, the **SUB-RECIPIENT** shall provide for the **PROJECT** under the following guidelines:

- A. The **PROJECT** will be performed within the **SUB-RECIPIENTS** service area.
- B. The **PROJECTS** will provide transportation for the elderly, persons with disabilities, and the general public to and from work activities within the **SUB-RECIPIENT'S** area.
- C. The **SUB-RECIPIENT** will provide for the operation and management of the **PROJECT** in accordance with Exhibit G – Project Operating Budget, which is attached hereto and incorporated herein.
- D. The **SUB-RECIPIENT** shall advise WAMPO in writing of any changes in the **PROJECT**.
- E. The properties and policies for the **PROJECT** shall provide for totally accessible transportation for the elderly and the disabled to and from work activities for the duration of the project.

Section 4. Contractual Provisions. The provisions and assurances found in the approved 49 U.S.C. § 5317 **PROJECT** application submitted by the **SUB-RECIPIENT** are hereby incorporated and made a part hereof.

Section 5. Cost of Project, Funding Responsibility and Payment. The total cost for the **PROJECT** is estimated to be \$32,924 of which \$16,462 is reimbursable by **WAMPO**. The remaining \$16,462 of the cost will be provided by the **SUB-RECIPIENT**. These figures are based upon a matching ratio of 50 percent federal and 50 percent local funds for operating expenses. See Exhibit G – Project Operating Budget for the responsibilities of the **SUB-RECIPIENT**.

As described in **Section 3. Scope of the PROJECT** of this Agreement, the **SUB-RECIPIENT** will receive reimbursement from **WAMPO** for actual expenses incurred by the **SUB-RECIPIENT**, but not to exceed the amounts listed in Exhibit G – Project Operating Budget which is hereby incorporated into this Agreement.

Any **PROJECT** income derived from the **PROJECT** will be used to reduce the operating costs prior to submittal of reimbursable costs to **WAMPO**. **PROJECT** costs referred to in this Agreement shall be comprised of the allowable direct and indirect costs incidental to the performance to be determined in accordance with the standards set forth in the Code of Federal Regulations, 41 CFR 1-15.705 and 1-15.706 which are incorporated herein by reference insofar as they are applicable.

Upon receipt of the Monthly Ridership Report and the billing invoice, **WAMPO** will reimburse allowable costs as requested by the **SUB-RECIPIENT**. Reimbursement of any cost pursuant to this section shall not constitute a final determination by **WAMPO** of the eligibility of such costs and shall not constitute a waiver of any violation of the terms of this Agreement committed by the **SUB-RECIPIENT**.

Payment of reimbursable costs, as set forth in this section, is conditioned upon receipt of 49 U.S.C. § 5317 Funds by **WAMPO** for the **PROJECT** costs.

It is agreed and understood by and between the parties that any funds expended by the **SUB-RECIPIENT** in violation of **WAMPO**, local, state and/or federal laws, rules, regulations, standards, principles, policies, or the provisions of this Agreement are disallowable. In the event that such disallowable expenditures are deemed to have been reimbursed, **WAMPO** shall upon written notification to the **SUB-RECIPIENT** request adjustment or repayment of such disallowed expenditures. **SUB-RECIPIENT** shall make such adjustment or repayment within thirty (30) days from receipt of said notification. Funds declared to be provided for ineligible expenditures will be returned to **WAMPO** within thirty (30) days of determination and request for payment. **WAMPO** may withhold any payments to the **SUB-RECIPIENT** for the purposes of set off until such time as any disallowed cost is repaid.

Section 6. Local Matching Funds for Support of the PROJECT. The **SUB-RECIPIENT** shall maintain the local funding support for the operation of transportation service at the same or increased level even if there is an increase of Federal or State assistance. If any of the local match support (i.e. County, State, or Federal funds) is pulled out of a **PROJECT**, the **FTA** funds being provided in this Agreement will be withdrawn from that **PROJECT**.

Section 7. Third Party Agreement. The **SUB-RECIPIENT** shall not execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 8. Period of Performance. The **SUB-RECIPIENT** shall commence implementation of the **PROJECT** upon execution of this Agreement and upon receipt of a written "Notice to Proceed" issued by **WAMPO**. The **SUB-RECIPIENT** shall prosecute the work outlined herein to completion no later than One Year, Six Months (18 months) following the date of the Notice to Proceed. The **SUB-RECIPIENT** has until July 1st following the termination of the Agreement to seek reimbursement. All requests for reimbursement should be submitted to **WAMPO** no later than July 1st following the end of the Agreement. After that date, any unclaimed or unused funds will be retained by **WAMPO**. No funds will be carried over.

Section 9. Dun & Bradstreet. The **SUB-RECIPIENT** will obtain a D-U-N-S number (Dun & Bradstreet Number). Use the following link: http://www.dnb.com/us/duns_update/.

Section 10. System for Award Management. The **SUB-RECIPIENT** will maintain current registrations with the System for Award Management (SAM) (www.sam.gov) at all times during which they have active federal awards. This is the Official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS.

Section 11. Audit. The **SUB-RECIPIENT** shall permit **WAMPO's** authorized representatives, the **FTA**, and the United States Department of Transportation (USDOT) to inspect all of the **SUB-RECIPIENT's** equipment, the books, records, and accounts of the **SUB-RECIPIENT** pertaining to the **PROJECT**. The **SUB-RECIPIENT** agrees the required financial and compliance audit as required by **WAMPO** will be completed within the prescribed audit reporting cycle. Local governments shall comply with SAFETA-LU, OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations".

Section 12. Employment of WAMPO's Employees. The **SUB-RECIPIENT** will not, without written permission from **WAMPO**, engage the services of any person or persons in the employment of **WAMPO** for any work required by the terms of this Agreement.

Section 13. Ownership of Data. All reports and documents pertaining to the **PROJECT** mentioned herein shall be prepared in accordance with **WAMPO's** standard practice and shall become the property of **WAMPO** upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their further use.

Section 14. Indemnification. The **SUB-RECIPIENT** will defend, indemnify, hold harmless, and save **WAMPO** and its authorized representatives and **FTA** from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions of performance of this Agreement, any contract entered into under this Agreement, or the operation of the vehicles described herein by the **SUB-RECIPIENT**, the **SUB-RECIPIENT's** employees, agents, or subcontractors.

Section 15. Covenant Against Contingent Fees. The **SUB-RECIPIENT** warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the

SUB-RECIPIENT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **SUB-RECIPIENT**, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WAMPO shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, as stated in Exhibit D, Certification of Provider and Certification of **WAMPO**, which is incorporated in this Agreement and made a part thereof.

Section 16. Changes to Agreement. No changes to this Agreement will be allowed without prior written approval by **WAMPO**. To be effective, a revision in this Agreement shall be made by an amendment to this Agreement.

Section 17. Records and Reports.

- A. Establish and Maintain Accounting Records:** The **SUB-RECIPIENT** shall establish and maintain a separate account for the **PROJECT**, either independently or within its existing accounting system, to be known as the **PROJECT** account. The **SUB-RECIPIENT** agrees to keep detailed and accurate records of all labor, material, supplies, incidentals, and any other necessary costs involved in the **PROJECT**.
- B. Retention of Records:** The **SUB-RECIPIENT** shall be required to maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at their office at all reasonable times during the period of Agreement performance and for five (5) years from the date of the close of this Agreement as delineated in the **Notice to Proceed** letter. Such accounting records and other evidence pertaining to the costs incurred shall be made available for inspection by **WAMPO**, **FTA**, **USDOT**, or their authorized representatives, and copies thereof shall be furnished if requested.
- C. Reports:** The **SUB-RECIPIENT** shall advise **WAMPO** regarding the progress of the **PROJECT** at such times and in such a manner as **WAMPO** may require, including, but not limited to meetings, quarterly reports, and expenditure reports. The **SUB-RECIPIENT** shall submit to **WAMPO** such financial statements, data, records, contracts, and other documents related to the **PROJECT** as may be deemed necessary by **WAMPO**.

Section 18. Termination of Agreement. **WAMPO** has the right to terminate this Agreement by giving thirty (30) days written notice in the event **WAMPO** determines the **PROJECT** should be abandoned or indefinitely postponed; provided, however, in any case, the **SUB-RECIPIENT** shall be paid the amount due for their services rendered by the operators of the **PROJECT** up to the time of termination on the basis of the provisions of this Agreement.

WAMPO has the right to terminate this Agreement at any time, upon written notice to the **SUB-RECIPIENT**, in the event the **SUB-RECIPIENT** fails to comply with all the terms and provisions of this Agreement. The **SUB-RECIPIENT** shall be paid for expenses judged reasonable for the services rendered to the date of termination; provided in the event of termination of this Agreement, the **SUB-RECIPIENT** shall not be paid more than that which would be received under the terms of this Agreement for that portion of services rendered to the date of termination.

Either party may terminate this Agreement for cause, provided written notification is received by the other party thirty (30) days prior to the proposed termination date. In the event of termination by **WAMPO**, the **SUB-RECIPIENT** shall only be paid for all costs and uncancelable obligations incurred prior to the date of termination on the basis of the provisions of this Agreement.

The Agreement's termination shall not relieve the **SUB-RECIPIENT** of any of its obligation to **WAMPO** existing at the time of expiration, or terminate those obligations of the **SUB-RECIPIENT**, which, by their nature, survive the termination of this Agreement.

Section 19. Noncompliance with PROJECT's Application and Program. The **SUB-RECIPIENT** shall be in noncompliance with either the terms of this Agreement or each **PROJECT** application if the **SUB-RECIPIENT** misuses a vehicle. Misuse includes, but is not limited to, the following:

- A. Vehicles used for agency administrative functions, such as staff use to attend meetings, going to the bank or post office, etc.
- B. The **SUB-RECIPIENT** fails to label vehicles properly.

In the event of noncompliance by the **SUB-RECIPIENT**, **WAMPO** shall not make any payments during the term of noncompliance. The **SUB-RECIPIENT** agrees payment is due from **WAMPO** for a **PROJECT** only during the time the **PROJECT** is in compliance. Any controversy arising out of what constitutes the period of noncompliance shall be determined by **WAMPO**.

Section 20. Compliance. The **SUB-RECIPIENT** shall comply with all federal, state, and local laws, ordinances, resolutions, rules, regulations, standards, principles, policies and procedures in the implementation of the transportation service provided for in this Agreement. The **SUB-RECIPIENT** agrees to comply with all terms, provisions, and conditions which **WAMPO** is required to comply with pursuant to **WAMPO's** agreements with the **FTA**. Said terms, provisions, and conditions, including all future additions and amendments thereto, are hereby incorporated herein..

Section 21. Responsibility to Employees. The **SUB-RECIPIENT** accepts full responsibility for providing worker's compensation coverage and for payment of unemployment insurance, and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for his or her employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless, **WAMPO** for the same.

Section 22. Equal Employment Opportunity. In connection with the execution of this contract, the **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disability, or national origin. The **SUB-RECIPIENT** shall take affirmative action to insure applicants are employed, and employees are treated during this employment, without regard to race, religion, color, age, sex, disability, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.

Section 23. Cooperation and Coordination of Transportation. The **SUB-RECIPIENT** will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and Paratransit operators and social service agencies capable of purchasing service. In connection with the performance of the **PROJECT**, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographical area.

Section 24. SUB-RECIPIENT's Capabilities. The **SUB-RECIPIENT** possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the 49 U.S.C. § 5317 program and to receive and disburse federal and state funds.

Section 25. Matching Share for the PROJECT. The **SUB-RECIPIENT** agrees the designated combination of federal, state, local, private and/or in-kind funding sources has been or will be committed to provide the required matching share for the **PROJECT**.

[5]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

Section 26. Civil Rights Act of 1964. The **SUB-RECIPIENT** will comply with all the requirements imposed by the Title VI and Title VII of the Civil Rights Act of 1964 (78 Sta. 252), the Regulations of **USDOT** issued thereunder (49 CFR 27, Subpart A), and the assurance by the **WAMPO** pursuant thereto. (See Exhibit E which is incorporated herein).

Section 27. Section 504 – Rehabilitation Act of 1973. The **SUB-RECIPIENT** will comply with all requirements imposed by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Regulations of USDOT issued thereunder (49 CFR 27), and the assurances by the **WAMPO** pursuant thereto.

Section 28. Disadvantaged Business. In connection with the performance of this Agreement, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the maximum utilization of disadvantaged businesses and will use its best efforts to insure disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. The **SUB-RECIPIENT** will comply with the statements in 49 CFR 23.43, Subsections (a) and (b).

Section 29. Interest of Members of or Delegates to Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 30. Prohibited Interest. No member, officer, or employee of the **SUB-RECIPIENT** during their tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 31. Labor Protection. The **SUB-RECIPIENT** shall undertake, carry out, and complete its transportation needs under the terms and conditions determined the Secretary of the U.S. Department of Labor to be fair and equitable to protect the interests of employees affected by the **SUB-RECIPIENT** and meeting the requirements of Section 13 (c) of the Federal Transit Administration Act of 1964, as amended, referenced by the **PROJECT'S** acceptance of Special Section 13 (c) Warranty incorporated into and made part of this Agreement under Section 4, titled Contractual Provisions.

- A. The **PROJECT** shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the **PROJECT**.
- B. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C. The **SUB-RECIPIENT** shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the **PROJECT**.
- D. In the event an employee is terminated or laid off as a result of the **PROJECT**, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the **SUB-RECIPIENT** shall provide or provide for such training or retraining at no cost to the employee.

Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the **PROJECT**, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as

[6]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971.

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the **PROJECT**" as used herein shall include events occurring in anticipation of, during, and subsequent to the **PROJECT**.

- E. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the **SUB-RECIPIENT**, their employees, and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- F. The **SUB-RECIPIENT** agrees any controversy respecting the **PROJECT'S** effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- G. The **SUB-RECIPIENT** shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of decisions called for in the preceding paragraph.
- H. The **SUB-RECIPIENT** will post, in a prominent and accessible place, a notice stating the **SUB-RECIPIENT** is a recipient of Federal assistance under the **FTA** and has agreed to comply with the provisions of 49 U.S.C., Section 54333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees.

Section 32. Lobbying. The **SUB-RECIPIENT** certifies, to the best of his or her knowledge and believe:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96).]
- C. The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contract under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

[7]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The **SUB-RECIPIENT** hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **SUB-RECIPIENT** understands and agrees the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Section 33. Program Fraud and False or Fraudulent Statements or Related Acts. The **SUB-RECIPIENT** acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR 31, apply to its actions pertaining to each **PROJECT**. Upon execution of the underlying Agreement, the **SUB-RECIPIENT** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the **FTA** assisted **PROJECT** for which this contract work is being performed. In addition to other penalties that may be applicable, the **SUB-RECIPIENT** further acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties for the Program Fraud Civil Remedies Act of 1986 on the **SUB-RECIPIENT** to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** also acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project financed in whole or in part with Federal assistance originally awarded by **FTA** under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **SUB-RECIPIENT**, to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by **FTA**. It is further agreed the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 34. Federal Changes. The **SUB-RECIPIENT** shall at all times comply with all applicable **FTA** regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form **FTA** MA) between the **SUB-RECIPIENT** and **FTA**, as they may be amended or promulgated from time to time during the term of this Agreement. The **SUB-RECIPIENT'S** failure to so comply shall constitute a material breach of this Agreement.

Section 35. Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in **FTA** Circular 4220.1D, dated April 15, 1996, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all **FTA** mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **SUB-RECIPIENT** shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause the **SUB-RECIPIENT** to be in violation of the **FTA** terms and conditions.

Section 36. Buy America. The **SUB-RECIPIENT** agrees to comply with 49 U.S.C. § 5323(j) and 49 CFR 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in **FTA**-funded projects are produced in the United States, unless a waiver has been granted by **FTA** or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements

for rolling stock are set out in 49 U.S.C. § 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content.

Section 37. Disputes. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of **WAMPO** and delivered by e-mail to the **SUB-RECIPIENT**. This decision shall be final and conclusive unless within five (5) business days from the date of delivery, the **SUB-RECIPIENT** delivers a written appeal to **WAMPO**. In connection with any such appeal, the **SUB-RECIPIENT** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of **WAMPO** shall be binding upon the **SUB-RECIPIENT** and the **SUB-RECIPIENT** shall abide by the decision.

- A. Performance During Dispute:** Unless otherwise directed by **WAMPO**, the **SUB-RECIPIENT** shall continue performance under this Agreement while matters in dispute are being resolved.
- B. Claims for Damages:** Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- C. Rights and Remedies:** The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by **WAMPO** or **SUB-RECIPIENT** shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as many be specifically agreed in writing.

Section 38. \$100,000 Threshold. The **SUB-RECIPIENT** also agrees to include these following requirements in each agreement that totals may exceed \$100,000 financed in whole or in part with Federal assistance provided by **FTA**:

- A. Clean Air:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn, report each violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- B. Clean Water:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn report violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- C. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – (Lower Tier Covered Transaction):** The **SUB-RECIPIENT** certifies, by submission of this Agreement, neither it nor its “principals” [as defined by 49 CFR 29.105] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the **SUB-RECIPIENT** should be unable to certify to the statements in this certification, the **SUB-RECIPIENT** shall attach an explanation to this submitted Agreement.

Section 39. Contracts Under This Agreement. Unless otherwise authorized in writing by **WAMPO**, the **SUB-RECIPIENT** shall not assign any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 40. Contractual Provisions Attachment. The provisions found in Exhibit B Contractual Provisions Attachment, are hereby incorporated in this Agreement and made a part thereof.

Section 41. Master Agreement. The Parties to this Agreement agree the standard terms and agreements between the **FTA** and **WAMPO**, commonly referred to as "Master Agreement", as amended from time to time, are hereby incorporated into this Agreement and made a part thereof.

Section 42. Successors and Assigns. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon **WAMPO** and the **SUB-RECIPIENT** and their successors and assigns.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS THEREOF: The Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

Breakthrough Club, Inc.

**Wichita Area Metropolitan Planning
Organization**

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Date: _____

Date: _____

City of Wichita as Fiscal Agent for WAMPO

Approved as to form:

By: _____
Carl Brewer, City of Wichita Mayor

Attest: _____
John Schlegel, WAMPO Secretary

Austin Parker
Attorney for the Wichita Area
Metropolitan Planning Organization

Date: _____

[10]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present Agreement, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

[11]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present Agreement, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the 1st day of November, 2013.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Finance of the City of Wichita, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, WAMPO may terminate this agreement at the end of its current fiscal year. WAMPO agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this Agreement, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year; to take possession of any equipment it provided to WAMPO under the Agreement. WAMPO will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by WAMPO, title to any such equipment shall revert to contractor at the end of WAMPO's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the WAMPO nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this Agreement understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such Agreement or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the WAMPO has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the WAMPO shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The WAMPO shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
10. **Insurance:** The WAMPO shall not be required to purchase, any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the WAMPO to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

EXHIBIT C

CERTIFICATION OF COORDINATING SUB-RECIPIENT

I hereby certify that I am the Project Manager and duly authorized representative of Breakthrough Club, Inc., whose address is 1010 N. Main, Wichita, KS 67201 and that neither I nor the above **SUB-RECIPIENT** I here represent has:

- (a) Employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) to solicit or secure this agreement.
- (b) Agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
- (c) Paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to **WAMPO** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)

EXHIBIT D

CERTIFICATION OF WAMPO

I hereby certify that I represent **WAMPO** and that the above **SUB-RECIPIENT** or the **SUB-RECIPIENT's** representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced **SUB-RECIPIENT** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)
WAMPO

By: Kristen Zimmerman
Transportation Planning Manager

Exhibit E

CONTRACTOR ASSURANCE

Title VI Standard Terms And Conditions (Sub-Recipients)

SUB-RECIPIENT understands and agrees that the following terms and conditions apply to the Agreement entered into between **SUB-RECIPIENT** and the Wichita Area Metropolitan Area Planning Department (**WAMPO**). These terms and conditions are made a part of and are hereby incorporated into the Agreement. **SUB-RECIPIENT** further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with **WAMPO**, and that **WAMPO** may take the appropriate action against **SUB-RECIPIENT** to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS

SUB-RECIPIENT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation— Effectuation of Title VI of the Civil Rights Act*;

1.2 The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

1.3 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

1.4 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

1.4.1 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

1.4.2 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

1.4.3 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

1.4.4 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

1.4.5 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

1.4.6 41 CFR Subpart 101 – 119— *Accommodations for the Physically Handicapped*;

1.4.7 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

[17]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

1.4.8 47 CFR Part 64, Subpart F— *Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

1.4.9 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

1.4.10 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

1.4.11 Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

1.5 The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

1.6 The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

1.7 The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

1.8 Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

1.9 Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. §2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Person*; and

1.10 All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES

SUB-RECIPIENT is required to adopt a nondiscrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, or national origin. Specifically, **SUB-RECIPIENT's** Statement of Nondiscrimination must state: "**SUB-RECIPIENT** assures that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance." **SUB-RECIPIENT's** Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

2.1 SUB-RECIPIENT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and **SUB-RECIPIENT** must provide a written copy of each to **WAMPO** upon execution of the Agreement. "Publicly post" includes, but is not limited to, posting the documents to **SUB-RECIPIENT's** website if it has one.

2.2 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

2.3 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

2.4 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to **WAMPO** upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required statement.

2.5 If the **SUB-RECIPIENT** does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to execution of the Agreement. If the **SUB-RECIPIENT** does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then **SUB-RECIPIENT** must use and adhere to the **WAMPO's** non-discrimination policy and statement. A copy of this will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found at **WAMPO's** website at www.wampoks.org.

3.0 TITLE VI PLAN & COMPLAINT PROCEDURE

SUB-RECIPIENT is required to develop and publish a Title VI Plan that includes a Public Participation Plan (PPP), a Limited English Proficiency (LEP) Plan, and a Title VI Complaint Procedure. The Title VI Plan, and its attendant parts, must comply with Federal guidelines regarding such plans.

3.1 SUB-RECIPIENT must provide a copy of its Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure upon execution of the Agreement.

3.2 SUB-RECIPIENT must make the Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure publicly available, which includes posting each of these documents to **SUB-RECIPIENT's** website if it has one, and informing attendees at any public meetings, hearings, or other events related to the work under the Agreement of their rights under Title VI and the procedures for filing a Title VI complaint. **WAMPO** has brochures regarding Title VI rights and its Complaint Procedures that it can make available to **SUB-RECIPIENT** and can be found on **WAMPO's** website at www.wampoks.org.

3.3 If **SUB-RECIPIENT** does not have a federally compliant Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to the execution of the Agreement, and **SUB-RECIPIENT** must use **WAMPO's** Title VI Plan, PPP, LEP Plan, and Complaint Procedure. A copy of each will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found on **WAMPO's** website at www.wampoks.org.

4.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH

If **SUB-RECIPIENT** is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such a way as to not exclude a person from participation on the basis of race, color, national origin, sex, or disability;

informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, or LEP status.

4.1 SUB-RECIPIENT shall submit to WAMPO after every public meeting, engagement, or other community outreach a report that provides the following information: (1) description of the purpose of the event; (2) the time, date, and location of the event; (3) the methods used to advertise the event; (4) identify the building and room where the event was held; (5) note any special accommodations that were requested prior to or during the event; (6) how the attendees were informed of their rights under Title VI including complaint procedures; (7) the number of attendees; (8) the number of minority and women attendees (*note these last figures should be estimates based upon observations and should not be obtained by asking attendees to identify their gender, race, color, or national origin*). WAMPO has a form that it will provide to **SUB-RECIPIENT** upon request that **SUB-RECIPIENT** can use to document its public events.

5.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE AND PRINTED MATERIALS DEVELOPMENT

If **SUB-RECIPIENT** is required to develop or create a website or printed informational materials as part of its work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, **SUB-RECIPIENT** will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. **SUB-RECIPIENT** must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, **SUB-RECIPIENT** must design or create any website so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. **SUB-RECIPIENT's** can find more information about accessibility standards at: <http://www.section508.gov/>.

6.0 TITLE VI REPORTING REQUIREMENTS

SUB-RECIPIENT is required to provide WAMPO the required information listed in 4.1 above in regard to public events. Further, **SUB-RECIPIENT** shall provide **WAMPO** with any additional information that **WAMPO** requests in regard to Title VI compliance. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating **SUB-RECIPIENT's** compliance with Title VI.

7.0 TITLE VI COMPLAINTS

SUB-RECIPIENT must notify **WAMPO** in writing if a Title VI complaint is filed against it, within five (5) business days of **SUB-RECIPIENT** being notified of such complaint. The notification must be provided to WAMPO even if the complaint is not in regard to work that **SUB-RECIPIENT** performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

8.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS

[20]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

SUB-RECIPIENT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. **SUB-RECIPIENT** can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

9.0 IMPORTANT DBE REQUIREMENTS

SUB-RECIPIENT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

9.1 SUB-RECIPIENT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

9.2 SUB-RECIPIENT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

9.3 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to WAMPO upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required prohibition.

10.0 DBE CONTRACT GOALS

If the project governed by the Agreement includes a DBE contract goal, **SUB-RECIPIENT** understands and agrees that it is required to strictly adhere to the requirements of 49 CFR Part 26 in its efforts to achieve the DBE contract goal.

11.0 SELECTING DBE SUBCONTRACTORS

In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with the Kansas Department of Transportation or the Kansas Department of Commerce. It is the responsibility of **SUB-RECIPIENT** to ensure that the DBE subcontractor it hires is a certified DBE firm.

12.0 TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR

SUB-RECIPIENT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by **WAMPO** as a DBE subcontractor under the Agreement without the prior written consent of **WAMPO**. This includes, but is not limited to, instances where **SUB-RECIPIENT** seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If **SUB-RECIPIENT** wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide **SUB-RECIPIENT** and **WAMPO** the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to **WAMPO**. Only after the DBE subcontractor has been so notified and provided time to object, may **SUB-RECIPIENT** submit its request to terminate or substitute a DBE subcontractor. **SUB-RECIPIENT** must submit its request in writing to WAMPO and fully state the reasons for its request. Unless the request demonstrates that **SUB-RECIPIENT** has good cause to terminate and/or substitute a DBE subcontractor, WAMPO will not concur in **SUB-RECIPIENT's** finding of good cause and will not approve **SUB-RECIPIENT's** request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

[21]

WAMPO – Breakthrough Club, Inc.
New Freedom Project Agreement
October 2013

12.1 When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, **SUB-RECIPIENT** is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE contract goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE contract goal.

13.0 DBE REPORTING REQUIREMENTS

SUB-RECIPIENT is required to submit to **WAMPO**, on a monthly basis, the DBE Participation Form that is attached to the Agreement. **SUB-RECIPIENT** shall also provide any other data relevant to DBE participation on the project upon request by **WAMPO**. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating the information provided by **SUB-RECIPIENT** on its DBE reporting forms.

14.0 FLOW DOWN PROVISIONS

The provisions listed in this Attachment apply to every subcontractor hired by **SUB-RECIPIENT** to perform work under the Agreement. **SUB-RECIPIENT** will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that **SUB-RECIPIENT** enters into under the Agreement.

Exhibit F

TITLE VI ASSURANCES

Title VI Standard Terms And Conditions (Sub-Recipients)

1) Civil Rights

a. Non-Discrimination Assurances

i. As required by federal law, **SUB-RECIPIENT** certifies that it will comply with all applicable federal and state statutes relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e).

ii. **SUB-RECIPIENT** shall comply with the administrative rules of the U.S. Department of Transportation (DOT) relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

iii. **SUB-RECIPIENT** shall not discriminate on grounds of race, color, or national origin of any individual in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. **SUB-RECIPIENT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21. 5 including employment practices.

iv. These assurances concerning nondiscrimination also apply to sub-contractors and supplies of **SUB-RECIPIENT**. These apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment. Each potential sub-contractor or supplier shall be notified by **SUB-RECIPIENT** of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, or national origin of any individual.

v. **SUB-RECIPIENT** assures that, as a condition of receiving reimbursements under this Agreement, that it will not discriminate on grounds of race, color, or national origin of an individual in the performance of any services under this Agreement, including the selection and retention of sub-contractors and the procurement of materials and leases of equipment.

b. **SUB-RECIPIENT** shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

c. The terms of this paragraph shall apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment, and **SUB-RECIPIENT** shall notify each potential subcontractor, supplier, or lessor of **SUB-RECIPIENT's** obligations under this Agreement.

d. Each of the statutes, regulations, or rules, including any later amendments, listed in this paragraph are incorporated by reference and made a part of this Agreement.

e. **SUB-RECIPIENT** shall include these provisions in every sub-contract, including procurement of materials or leases of equipment.

f. Failure to carry out the requirements set forth in this paragraph shall constitute a breach of contract and may result in termination of this Agreement or other remedy that is deemed appropriate.

EXHIBIT G

5317 Project Operating Budget

SUB-RECIPIENT's Name Breakthrough Club, Inc.

Budget Year - 11/1/13 – 5/1/15

Personnel:

- Driver _____

Fuel _____

Misc. *

Total Operating Cost _____

Project Income

Operating Subtotal \$32,924

Local Match	\$16,462
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5317 Reimbursement	<u>\$16,462</u>
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Total Project Cost	\$32,924
--------------------	----------

***If misc. expense is reflected in budget, please identify below.**

EXHIBIT H

WAMPO Info Sheet

Date

Project Number
(completed by WAMPO)

SUB-RECIPIENT's Name

Breakthrough Club, Inc.

SUB-RECIPIENT's
Federal Tax ID Number
(FEIN)

SUB-RECIPIENT's Dun &
Bradstreet Number
(DUNS)

SAM Expiration Date
(System for Award Management)

SAM Number

SUB-RECIPIENT Mailing
Address

Phone Number

Fax Number

AGREEMENT FOR 49 U.S.C. § 5317 New Freedom (NF) Funds

Wichita Transit
Wichita Transit Mobility Manager
NF Grant Agreement (CFDA 20.521)
Project Number NF-13-002

THIS AGREEMENT made and entered into this 1st day of November, 2013, by and between the Wichita Area Metropolitan Planning Organization, hereinafter referred to as “**WAMPO**”, and Wichita Transit referred to as the “**SUB-RECIPIENT**”, acting by and through Steve Spade its duly authorized representative, whose office is located at 777 E. Waterman, Wichita, KS 67202. **WAMPO** and the **SUB-RECIPIENT** are collectively referred to as the “**PARTIES**”.

INTRODUCTION

The 49 U.S.C. § 5317 (New Freedom program) of the Safe Accountable Flexible and Efficient Transportation Act, a Legacy for Users (SAFETEA-LU), hereinafter referred to as the “**ACT**”, provides in part, for operating grants to eligible applicants for the specific purpose of assisting them in providing transportation services that go beyond those required by the Americans with Disabilities Act (ADA). This service is for person with disabilities living in rural and non-urbanized (less than 50,000 population) areas and urbanized (greater than 50,000 population) areas. The 49 U.S.C. § 5317 projects may include the transportation of rural and non-urbanized area residents to and from activities in the urbanized areas. For this Agreement, transportation shall be provided as required by U.S.C. § 5317.

The Governor of the State of Kansas in accordance with a request by the Federal Administration, hereinafter referred to as “**FTA**”, has designated **WAMPO** as the designated recipient of U.S.C. § 5317 funds and to evaluate, select projects, and coordinate grant applications.

The **SUB-RECIPIENT** desires to apply, secure, and utilize grant funds for the transportation needs of persons within the Wichita Urbanized Area. **WAMPO** is willing, subject to the terms of this Agreement, to provide financial assistance to the **SUB-RECIPIENT** for the undertaking of a transportation project for the general public, hereinafter referred to as “**PROJECT**”. The **SUB-RECIPIENT** expressed an interest in sponsoring the **PROJECT** within the Wichita Urbanized Area. The **SUB-RECIPIENT** has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including local private operators.

The **PARTIES**, in consideration of the mutual covenants herein set forth, agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of the **PROJECT** by the **SUB-RECIPIENT**. The **PARTIES** mutually agree the Agreement contains the terms, conditions, and mutual understandings of the **PARTIES** as to the manner in which the funding for operating expenses of the **PROJECT** will be undertaken and completed.

Section 2. Administration. **WAMPO** will serve as the administer of federal funds for this **PROJECT**.

Section 3. Scope of the PROJECT. The **SUB-RECIPIENT** shall undertake and complete the **PROJECT** in accordance with the terms and conditions of this Agreement and the **PROJECT** application, which is hereby incorporated in the Agreement and made a part thereof.

Under the direction of the Agreement and the **PROJECT** application, the **SUB-RECIPIENT** shall provide for the **PROJECT** under the following guidelines:

- A. The **PROJECT** will be performed within the **SUB-RECIPIENTS** service area.
- B. The **PROJECTS** will provide transportation for the elderly, persons with disabilities, and the general public to and from work activities within the **SUB-RECIPIENT'S** area.
- C. The **SUB-RECIPIENT** will provide for the operation and management of the **PROJECT** in accordance with Exhibit G – Project Operating Budget, which is attached hereto and incorporated herein.
- D. The **SUB-RECIPIENT** shall advise WAMPO in writing of any changes in the **PROJECT**.
- E. The properties and policies for the **PROJECT** shall provide for totally accessible transportation for the elderly and the disabled to and from work activities for the duration of the project.

Section 4. Contractual Provisions. The provisions and assurances found in the approved 49 U.S.C. § 5317 **PROJECT** application submitted by the **SUB-RECIPIENT** are hereby incorporated and made a part hereof.

Section 5. Cost of Project, Funding Responsibility and Payment. The total cost for the **PROJECT** is estimated to be \$115,828 of which \$115,828 is reimbursable by **WAMPO**. These figures are based upon a matching ratio of 100 percent federal and 0 percent local funds for operating expenses. See Exhibit G – Project Operating Budget for the responsibilities of the **SUB-RECIPIENT**.

As described in **Section 3. Scope of the PROJECT** of this Agreement, the **SUB-RECIPIENT** will receive reimbursement from **WAMPO** for actual expenses incurred by the **SUB-RECIPIENT**, but not to exceed the amounts listed in Exhibit G – Project Operating Budget which is hereby incorporated into this Agreement.

Any **PROJECT** income derived from the **PROJECT** will be used to reduce the operating costs prior to submittal of reimbursable costs to **WAMPO**. **PROJECT** costs referred to in this Agreement shall be comprised of the allowable direct and indirect costs incidental to the performance to be determined in accordance with the standards set forth in the Code of Federal Regulations, 41 CFR 1-15.705 and 1-15.706 which are incorporated herein by reference insofar as they are applicable.

Upon receipt of the Monthly Ridership Report and the billing invoice, **WAMPO** will reimburse allowable costs as requested by the **SUB-RECIPIENT**. Reimbursement of any cost pursuant to this section shall not constitute a final determination by **WAMPO** of the eligibility of such costs and shall not constitute a waiver of any violation of the terms of this Agreement committed by the **SUB-RECIPIENT**.

Payment of reimbursable costs, as set forth in this section, is conditioned upon receipt of 49 U.S.C. § 5317 Funds by **WAMPO** for the **PROJECT** costs.

It is agreed and understood by and between the parties that any funds expended by the **SUB-RECIPIENT** in violation of **WAMPO**, local, state and/or federal laws, rules, regulations, standards, principles, policies, or the provisions of this Agreement are disallowable. In the event that such disallowable expenditures are deemed to have been reimbursed, **WAMPO** shall upon written notification to the **SUB-RECIPIENT** request adjustment or repayment of such disallowed expenditures. **SUB-RECIPIENT** shall make such adjustment or repayment within thirty (30) days from receipt of said notification. Funds declared to be provided for ineligible expenditures will be returned to **WAMPO** within thirty (30) days of determination and request for payment. **WAMPO** may withhold any payments to the **SUB-RECIPIENT** for the purposes of set off until such time as any disallowed cost is repaid.

Section 6. Local Matching Funds for Support of the PROJECT. The **SUB-RECIPIENT** shall maintain the local funding support for the operation of transportation service at the same or increased level even if there is an increase of Federal or State assistance. If any of the local match support (i.e. County, State, or Federal funds) is pulled out of a **PROJECT**, the **FTA** funds being provided in this Agreement will be withdrawn from that **PROJECT**.

Section 7. Third Party Agreement. The **SUB-RECIPIENT** shall not execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 8. Period of Performance. The **SUB-RECIPIENT** shall commence implementation of the **PROJECT** upon execution of this Agreement and upon receipt of a written "Notice to Proceed" issued by **WAMPO**. The **SUB-RECIPIENT** shall prosecute the work outlined herein to completion no later than One Year, Six Months (18 months) following the date of the Notice to Proceed. The **SUB-RECIPIENT** has until July 1st following the termination of the Agreement to seek reimbursement. All requests for reimbursement should be submitted to **WAMPO** no later than July 1st following the end of the Agreement. After that date, any unclaimed or unused funds will be retained by **WAMPO**. No funds will be carried over.

Section 9. Dun & Bradstreet. The **SUB-RECIPIENT** will obtain a D-U-N-S number (Dun & Bradstreet Number). Use the following link: http://www.dnb.com/us/duns_update/.

Section 10. System for Award Management. The **SUB-RECIPIENT** will maintain current registrations with the System for Award Management (SAM) (www.sam.gov) at all times during which they have active federal awards. This is the Official U.S. Government system that consolidates the capabilities of CCR/FedReg, ORCA, and EPLS.

Section 11. Audit. The **SUB-RECIPIENT** shall permit **WAMPO's** authorized representatives, the **FTA**, and the United States Department of Transportation (USDOT) to inspect all of the **SUB-RECIPIENT's** equipment, the books, records, and accounts of the **SUB-RECIPIENT** pertaining to the **PROJECT**. The **SUB-RECIPIENT** agrees the required financial and compliance audit as required by **WAMPO** will be completed within the prescribed audit reporting cycle. Local governments shall comply with SAFETA-LU, OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations".

Section 12. Employment of WAMPO's Employees. The **SUB-RECIPIENT** will not, without written permission from **WAMPO**, engage the services of any person or persons in the employment of **WAMPO** for any work required by the terms of this Agreement.

Section 13. Ownership of Data. All reports and documents pertaining to the **PROJECT** mentioned herein shall be prepared in accordance with **WAMPO's** standard practice and shall become the property of **WAMPO** upon the completion thereof in accordance with the terms of this Agreement, without restrictions as to their further use.

Section 14. Indemnification. The **SUB-RECIPIENT** will defend, indemnify, hold harmless, and save **WAMPO** and its authorized representatives and **FTA** from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions of performance of this Agreement, any contract entered into under this Agreement, or the operation of the vehicles described herein by the **SUB-RECIPIENT**, the **SUB-RECIPIENT's** employees, agents, or subcontractors.

Section 15. Covenant Against Contingent Fees. The **SUB-RECIPIENT** warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the

SUB-RECIPIENT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the **SUB-RECIPIENT**, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WAMPO shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, as stated in Exhibit D, Certification of Provider and Certification of **WAMPO**, which is incorporated in this Agreement and made a part thereof.

Section 16. Changes to Agreement. No changes to this Agreement will be allowed without prior written approval by **WAMPO**. To be effective, a revision in this Agreement shall be made by an amendment to this Agreement.

Section 17. Records and Reports.

- A. Establish and Maintain Accounting Records:** The **SUB-RECIPIENT** shall establish and maintain a separate account for the **PROJECT**, either independently or within its existing accounting system, to be known as the **PROJECT** account. The **SUB-RECIPIENT** agrees to keep detailed and accurate records of all labor, material, supplies, incidentals, and any other necessary costs involved in the **PROJECT**.
- B. Retention of Records:** The **SUB-RECIPIENT** shall be required to maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at their office at all reasonable times during the period of Agreement performance and for five (5) years from the date of the close of this Agreement as delineated in the **Notice to Proceed** letter. Such accounting records and other evidence pertaining to the costs incurred shall be made available for inspection by **WAMPO**, **FTA**, **USDOT**, or their authorized representatives, and copies thereof shall be furnished if requested.
- C. Reports:** The **SUB-RECIPIENT** shall advise **WAMPO** regarding the progress of the **PROJECT** at such times and in such a manner as **WAMPO** may require, including, but not limited to meetings, quarterly reports, and expenditure reports. The **SUB-RECIPIENT** shall submit to **WAMPO** such financial statements, data, records, contracts, and other documents related to the **PROJECT** as may be deemed necessary by **WAMPO**.

Section 18. Termination of Agreement. **WAMPO** has the right to terminate this Agreement by giving thirty (30) days written notice in the event **WAMPO** determines the **PROJECT** should be abandoned or indefinitely postponed; provided, however, in any case, the **SUB-RECIPIENT** shall be paid the amount due for their services rendered by the operators of the **PROJECT** up to the time of termination on the basis of the provisions of this Agreement.

WAMPO has the right to terminate this Agreement at any time, upon written notice to the **SUB-RECIPIENT**, in the event the **SUB-RECIPIENT** fails to comply with all the terms and provisions of this Agreement. The **SUB-RECIPIENT** shall be paid for expenses judged reasonable for the services rendered to the date of termination; provided in the event of termination of this Agreement, the **SUB-RECIPIENT** shall not be paid more than that which would be received under the terms of this Agreement for that portion of services rendered to the date of termination.

Either party may terminate this Agreement for cause, provided written notification is received by the other party thirty (30) days prior to the proposed termination date. In the event of termination by **WAMPO**, the **SUB-RECIPIENT** shall only be paid for all costs and uncancelable obligations incurred prior to the date of termination on the basis of the provisions of this Agreement.

The Agreement's termination shall not relieve the **SUB-RECIPIENT** of any of its obligation to **WAMPO** existing at the time of expiration, or terminate those obligations of the **SUB-RECIPIENT**, which, by their nature, survive the termination of this Agreement.

Section 19. Noncompliance with PROJECT's Application and Program. The **SUB-RECIPIENT** shall be in noncompliance with either the terms of this Agreement or each **PROJECT** application if the **SUB-RECIPIENT** misuses a vehicle. Misuse includes, but is not limited to, the following:

- A. Vehicles used for agency administrative functions, such as staff use to attend meetings, going to the bank or post office, etc.
- B. The **SUB-RECIPIENT** fails to label vehicles properly.

In the event of noncompliance by the **SUB-RECIPIENT**, **WAMPO** shall not make any payments during the term of noncompliance. The **SUB-RECIPIENT** agrees payment is due from **WAMPO** for a **PROJECT** only during the time the **PROJECT** is in compliance. Any controversy arising out of what constitutes the period of noncompliance shall be determined by **WAMPO**.

Section 20. Compliance. The **SUB-RECIPIENT** shall comply with all federal, state, and local laws, ordinances, resolutions, rules, regulations, standards, principles, policies and procedures in the implementation of the transportation service provided for in this Agreement. The **SUB-RECIPIENT** agrees to comply with all terms, provisions, and conditions which **WAMPO** is required to comply with pursuant to **WAMPO's** agreements with the **FTA**. Said terms, provisions, and conditions, including all future additions and amendments thereto, are hereby incorporated herein..

Section 21. Responsibility to Employees. The **SUB-RECIPIENT** accepts full responsibility for providing worker's compensation coverage and for payment of unemployment insurance, and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for his or her employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless, **WAMPO** for the same.

Section 22. Equal Employment Opportunity. In connection with the execution of this contract, the **SUB-RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disability, or national origin. The **SUB-RECIPIENT** shall take affirmative action to insure applicants are employed, and employees are treated during this employment, without regard to race, religion, color, age, sex, disability, or national origin. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.

Section 23. Cooperation and Coordination of Transportation. The **SUB-RECIPIENT** will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and Paratransit operators and social service agencies capable of purchasing service. In connection with the performance of the **PROJECT**, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographical area.

Section 24. SUB-RECIPIENT's Capabilities. The **SUB-RECIPIENT** possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the 49 U.S.C. § 5317 program and to receive and disburse federal and state funds.

Section 25. Matching Share for the PROJECT. The **SUB-RECIPIENT** agrees the designated combination of federal, state, local, private and/or in-kind funding sources has been or will be committed to provide the required matching share for the **PROJECT**.

Section 26. Civil Rights Act of 1964. The **SUB-RECIPIENT** will comply with all the requirements imposed by the Title VI and Title VII of the Civil Rights Act of 1964 (78 Sta. 252), the Regulations of **USDOT** issued thereunder (49 CFR 27, Subpart A), and the assurance by the **WAMPO** pursuant thereto. (See Exhibit E which is incorporated herein).

Section 27. Section 504 – Rehabilitation Act of 1973. The **SUB-RECIPIENT** will comply with all requirements imposed by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Regulations of USDOT issued thereunder (49 CFR 27), and the assurances by the **WAMPO** pursuant thereto.

Section 28. Disadvantaged Business. In connection with the performance of this Agreement, the **SUB-RECIPIENT** will cooperate with **WAMPO** in meeting its commitments and goals with regard to the maximum utilization of disadvantaged businesses and will use its best efforts to insure disadvantaged businesses shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. The **SUB-RECIPIENT** will comply with the statements in 49 CFR 23.43, Subsections (a) and (b).

Section 29. Interest of Members of or Delegates to Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

Section 30. Prohibited Interest. No member, officer, or employee of the **SUB-RECIPIENT** during their tenure or one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 31. Labor Protection. The **SUB-RECIPIENT** shall undertake, carry out, and complete its transportation needs under the terms and conditions determined the Secretary of the U.S. Department of Labor to be fair and equitable to protect the interests of employees affected by the **SUB-RECIPIENT** and meeting the requirements of Section 13 (c) of the Federal Transit Administration Act of 1964, as amended, referenced by the **PROJECT'S** acceptance of Special Section 13 (c) Warranty incorporated into and made part of this Agreement under Section 4, titled Contractual Provisions.

- A. The **PROJECT** shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the **PROJECT**.
- B. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued.
- C. The **SUB-RECIPIENT** shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the **PROJECT**.
- D. In the event an employee is terminated or laid off as a result of the **PROJECT**, he or she shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the **SUB-RECIPIENT** shall provide or provide for such training or retraining at no cost to the employee.

Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the **PROJECT**, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as

[6]

WAMPO – Wichita Transit
New Freedom Project Agreement
October 2013

specified in the employee protective arrangement certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971.

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the **PROJECT**" as used herein shall include events occurring in anticipation of, during, and subsequent to the **PROJECT**.

- E. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the **SUB-RECIPIENT**, their employees, and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions.
- F. The **SUB-RECIPIENT** agrees any controversy respecting the **PROJECT'S** effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.
- G. The **SUB-RECIPIENT** shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of decisions called for in the preceding paragraph.
- H. The **SUB-RECIPIENT** will post, in a prominent and accessible place, a notice stating the **SUB-RECIPIENT** is a recipient of Federal assistance under the **FTA** and has agreed to comply with the provisions of 49 U.S.C., Section 54333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees.

Section 32. Lobbying. The **SUB-RECIPIENT** certifies, to the best of his or her knowledge and believe:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96).]
- C. The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contract under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

[7]

WAMPO – Wichita Transit
New Freedom Project Agreement
October 2013

U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The **SUB-RECIPIENT** hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **SUB-RECIPIENT** understands and agrees the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Section 33. Program Fraud and False or Fraudulent Statements or Related Acts. The **SUB-RECIPIENT** acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR 31, apply to its actions pertaining to each **PROJECT**. Upon execution of the underlying Agreement, the **SUB-RECIPIENT** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, and pertaining to the underlying contract or the **FTA** assisted **PROJECT** for which this contract work is being performed. In addition to other penalties that may be applicable, the **SUB-RECIPIENT** further acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties for the Program Fraud Civil Remedies Act of 1986 on the **SUB-RECIPIENT** to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** also acknowledges if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project financed in whole or in part with Federal assistance originally awarded by **FTA** under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **SUB-RECIPIENT**, to the extent the Federal Government deems appropriate.

The **SUB-RECIPIENT** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by **FTA**. It is further agreed the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 34. Federal Changes. The **SUB-RECIPIENT** shall at all times comply with all applicable **FTA** regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form **FTA** MA) between the **SUB-RECIPIENT** and **FTA**, as they may be amended or promulgated from time to time during the term of this Agreement. The **SUB-RECIPIENT'S** failure to so comply shall constitute a material breach of this Agreement.

Section 35. Incorporation of FTA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. DOT, as set forth in **FTA** Circular 4220.1D, dated April 15, 1996, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all **FTA** mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The **SUB-RECIPIENT** shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause the **SUB-RECIPIENT** to be in violation of the **FTA** terms and conditions.

Section 36. Buy America. The **SUB-RECIPIENT** agrees to comply with 49 U.S.C. § 5323(j) and 49 CFR 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in **FTA**-funded projects are produced in the United States, unless a waiver has been granted by **FTA** or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements

for rolling stock are set out in 49 U.S.C. § 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content.

Section 37. Disputes. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of **WAMPO** and delivered by e-mail to the **SUB-RECIPIENT**. This decision shall be final and conclusive unless within five (5) business days from the date of delivery, the **SUB-RECIPIENT** delivers a written appeal to **WAMPO**. In connection with any such appeal, the **SUB-RECIPIENT** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of **WAMPO** shall be binding upon the **SUB-RECIPIENT** and the **SUB-RECIPIENT** shall abide by the decision.

- A. Performance During Dispute:** Unless otherwise directed by **WAMPO**, the **SUB-RECIPIENT** shall continue performance under this Agreement while matters in dispute are being resolved.
- B. Claims for Damages:** Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- C. Rights and Remedies:** The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by **WAMPO** or **SUB-RECIPIENT** shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as many be specifically agreed in writing.

Section 38. \$100,000 Threshold. The **SUB-RECIPIENT** also agrees to include these following requirements in each agreement that totals may exceed \$100,000 financed in whole or in part with Federal assistance provided by **FTA**:

- A. Clean Air:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn, report each violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- B. Clean Water:** The **SUB-RECIPIENT** hereby agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.* The **SUB-RECIPIENT** agrees to report each violation to **WAMPO** and understands and agrees **WAMPO** will, in turn report violation as required to assure notification to **FTA** and the appropriate EPA Regional Office.
- C. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – (Lower Tier Covered Transaction):** The **SUB-RECIPIENT** certifies, by submission of this Agreement, neither it nor its “principals” [as defined by 49 CFR 29.105] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the **SUB-RECIPIENT** should be unable to certify to the statements in this certification, the **SUB-RECIPIENT** shall attach an explanation to this submitted Agreement.

Section 39. Contracts Under This Agreement. Unless otherwise authorized in writing by **WAMPO**, the **SUB-RECIPIENT** shall not assign any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of **WAMPO**.

Section 40. Contractual Provisions Attachment. The provisions found in Exhibit B Contractual Provisions Attachment, are hereby incorporated in this Agreement and made a part thereof.

Section 41. Master Agreement. The Parties to this Agreement agree the standard terms and agreements between the **FTA** and **WAMPO**, commonly referred to as "Master Agreement", as amended from time to time, are hereby incorporated into this Agreement and made a part thereof.

Section 42. Successors and Assigns. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon **WAMPO** and the **SUB-RECIPIENT** and their successors and assigns.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS THEREOF: The Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

Wichita Transit

**Wichita Area Metropolitan Planning
Organization**

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Date: _____

Date: _____

City of Wichita as Fiscal Agent for WAMPO

Approved as to form:

By:

Carl Brewer, City of Wichita Mayor

Attest:

John Schlegel, WAMPO Secretary

Austin Parker

Attorney for the Wichita Area
Metropolitan Planning Organization

Date:

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this Agreement, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this Agreement, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present Agreement, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
 - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

[11]

WAMPO – Wichita Transit
New Freedom Project Agreement
October 2013

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present Agreement, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
 5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
 2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

EXHIBIT B

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the 1st day of November, 2013.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Finance of the City of Wichita, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, WAMPO may terminate this agreement at the end of its current fiscal year. WAMPO agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this Agreement, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year; to take possession of any equipment it provided to WAMPO under the Agreement. WAMPO will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by WAMPO, title to any such equipment shall revert to contractor at the end of WAMPO's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the WAMPO nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this Agreement understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such Agreement or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the WAMPO has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the WAMPO shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The WAMPO shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this Agreement.
10. **Insurance:** The WAMPO shall not be required to purchase, any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the WAMPO to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

EXHIBIT C

CERTIFICATION OF COORDINATING SUB-RECIPIENT

I hereby certify that I am the Project Manager and duly authorized representative of Wichita Transit, whose address is 777 E. Waterman, Wichita, KS 67202 and that neither I nor the above **SUB-RECIPIENT** I here represent has:

- (a) Employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) to solicit or secure this agreement.
- (b) Agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
- (c) Paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above **SUB-RECIPIENT**) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to **WAMPO** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)

EXHIBIT D

CERTIFICATION OF WAMPO

I hereby certify that I represent **WAMPO** and that the above **SUB-RECIPIENT** or the **SUB-RECIPIENT's** representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced **SUB-RECIPIENT** in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

(Signature)
WAMPO

By: Kristen Zimmerman
Transportation Planning Manager

Exhibit E

CONTRACTOR ASSURANCE

Title VI Standard Terms And Conditions (Sub-Recipients)

SUB-RECIPIENT understands and agrees that the following terms and conditions apply to the Agreement entered into between **SUB-RECIPIENT** and the Wichita Area Metropolitan Area Planning Department (**WAMPO**). These terms and conditions are made a part of and are hereby incorporated into the Agreement. **SUB-RECIPIENT** further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with **WAMPO**, and that **WAMPO** may take the appropriate action against **SUB-RECIPIENT** to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS

SUB-RECIPIENT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

1.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation— Effectuation of Title VI of the Civil Rights Act*;

1.2 The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

1.3 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

1.4 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

1.4.1 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

1.4.2 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

1.4.3 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

1.4.4 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

1.4.5 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

1.4.6 41 CFR Subpart 101 – 119— *Accommodations for the Physically Handicapped*;

1.4.7 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

[17]

WAMPO – Wichita Transit
New Freedom Project Agreement
October 2013

1.4.8 47 CFR Part 64, Subpart F— *Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

1.4.9 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

1.4.10 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

1.4.11 Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

1.5 The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

1.6 The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

1.7 The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

1.8 Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

1.9 Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. §2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Person*; and

1.10 All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES

SUB-RECIPIENT is required to adopt a nondiscrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, or national origin. Specifically, **SUB-RECIPIENT's** Statement of Nondiscrimination must state: "**SUB-RECIPIENT** assures that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance." **SUB-RECIPIENT's** Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

2.1 SUB-RECIPIENT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and **SUB-RECIPIENT** must provide a written copy of each to **WAMPO** upon execution of the Agreement. "Publicly post" includes, but is not limited to, posting the documents to **SUB-RECIPIENT's** website if it has one.

2.2 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

2.3 SUB-RECIPIENT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

2.4 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to **WAMPO** upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required statement.

2.5 If the **SUB-RECIPIENT** does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to execution of the Agreement. If the **SUB-RECIPIENT** does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then **SUB-RECIPIENT** must use and adhere to the **WAMPO's** non-discrimination policy and statement. A copy of this will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found at **WAMPO's** website at www.wampoks.org.

3.0 TITLE VI PLAN & COMPLAINT PROCEDURE

SUB-RECIPIENT is required to develop and publish a Title VI Plan that includes a Public Participation Plan (PPP), a Limited English Proficiency (LEP) Plan, and a Title VI Complaint Procedure. The Title VI Plan, and its attendant parts, must comply with Federal guidelines regarding such plans.

3.1 SUB-RECIPIENT must provide a copy of its Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure upon execution of the Agreement.

3.2 SUB-RECIPIENT must make the Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure publicly available, which includes posting each of these documents to **SUB-RECIPIENT's** website if it has one, and informing attendees at any public meetings, hearings, or other events related to the work under the Agreement of their rights under Title VI and the procedures for filing a Title VI complaint. **WAMPO** has brochures regarding Title VI rights and its Complaint Procedures that it can make available to **SUB-RECIPIENT** and can be found on **WAMPO's** website at www.wampoks.org.

3.3 If **SUB-RECIPIENT** does not have a federally compliant Title VI Plan, including the PPP, LEP Plan, and Complaint Procedure, then **SUB-RECIPIENT** must notify **WAMPO** of this prior to the execution of the Agreement, and **SUB-RECIPIENT** must use **WAMPO's** Title VI Plan, PPP, LEP Plan, and Complaint Procedure. A copy of each will be provided to **SUB-RECIPIENT** upon execution of the Agreement and can be found on **WAMPO's** website at www.wampoks.org.

4.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH

If **SUB-RECIPIENT** is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such a way as to not exclude a person from participation on the basis of race, color, national origin, sex, or disability;

informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, or LEP status.

4.1 SUB-RECIPIENT shall submit to WAMPO after every public meeting, engagement, or other community outreach a report that provides the following information: (1) description of the purpose of the event; (2) the time, date, and location of the event; (3) the methods used to advertise the event; (4) identify the building and room where the event was held; (5) note any special accommodations that were requested prior to or during the event; (6) how the attendees were informed of their rights under Title VI including complaint procedures; (7) the number of attendees; (8) the number of minority and women attendees (*note these last figures should be estimates based upon observations and should not be obtained by asking attendees to identify their gender, race, color, or national origin*). WAMPO has a form that it will provide to **SUB-RECIPIENT** upon request that **SUB-RECIPIENT** can use to document its public events.

5.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE AND PRINTED MATERIALS DEVELOPMENT

If **SUB-RECIPIENT** is required to develop or create a website or printed informational materials as part of its work under the Agreement, then **SUB-RECIPIENT** must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, **SUB-RECIPIENT** will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. **SUB-RECIPIENT** must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, **SUB-RECIPIENT** must design or create any website so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. **SUB-RECIPIENT's** can find more information about accessibility standards at: <http://www.section508.gov/>.

6.0 TITLE VI REPORTING REQUIREMENTS

SUB-RECIPIENT is required to provide WAMPO the required information listed in 4.1 above in regard to public events. Further, **SUB-RECIPIENT** shall provide **WAMPO** with any additional information that **WAMPO** requests in regard to Title VI compliance. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating **SUB-RECIPIENT's** compliance with Title VI.

7.0 TITLE VI COMPLAINTS

SUB-RECIPIENT must notify **WAMPO** in writing if a Title VI complaint is filed against it, within five (5) business days of **SUB-RECIPIENT** being notified of such complaint. The notification must be provided to WAMPO even if the complaint is not in regard to work that **SUB-RECIPIENT** performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

8.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS

SUB-RECIPIENT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. **SUB-RECIPIENT** can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

9.0 IMPORTANT DBE REQUIREMENTS

SUB-RECIPIENT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

9.1 SUB-RECIPIENT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

9.2 SUB-RECIPIENT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

9.3 SUB-RECIPIENT must provide a sample of its procurement document(s) and subcontract to WAMPO upon execution of the Agreement, so that **WAMPO** can verify the inclusion of the required prohibition.

10.0 DBE CONTRACT GOALS

If the project governed by the Agreement includes a DBE contract goal, **SUB-RECIPIENT** understands and agrees that it is required to strictly adhere to the requirements of 49 CFR Part 26 in its efforts to achieve the DBE contract goal.

11.0 SELECTING DBE SUBCONTRACTORS

In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with the Kansas Department of Transportation or the Kansas Department of Commerce. It is the responsibility of **SUB-RECIPIENT** to ensure that the DBE subcontractor it hires is a certified DBE firm.

12.0 TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR

SUB-RECIPIENT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by **WAMPO** as a DBE subcontractor under the Agreement without the prior written consent of **WAMPO**. This includes, but is not limited to, instances where **SUB-RECIPIENT** seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If **SUB-RECIPIENT** wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide **SUB-RECIPIENT** and **WAMPO** the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to **WAMPO**. Only after the DBE subcontractor has been so notified and provided time to object, may **SUB-RECIPIENT** submit its request to terminate or substitute a DBE subcontractor. **SUB-RECIPIENT** must submit its request in writing to WAMPO and fully state the reasons for its request. Unless the request demonstrates that **SUB-RECIPIENT** has good cause to terminate and/or substitute a DBE subcontractor, WAMPO will not concur in **SUB-RECIPIENT's** finding of good cause and will not approve **SUB-RECIPIENT's** request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

[21]

WAMPO – Wichita Transit
New Freedom Project Agreement
October 2013

12.1 When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, **SUB-RECIPIENT** is required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE contract goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE contract goal.

13.0 DBE REPORTING REQUIREMENTS

SUB-RECIPIENT is required to submit to **WAMPO**, on a monthly basis, the DBE Participation Form that is attached to the Agreement. **SUB-RECIPIENT** shall also provide any other data relevant to DBE participation on the project upon request by **WAMPO**. **SUB-RECIPIENT** shall also permit **WAMPO** to access its records up to and including accounting records that are pertinent to **WAMPO** substantiating the information provided by **SUB-RECIPIENT** on its DBE reporting forms.

14.0 FLOW DOWN PROVISIONS

The provisions listed in this Attachment apply to every subcontractor hired by **SUB-RECIPIENT** to perform work under the Agreement. **SUB-RECIPIENT** will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that **SUB-RECIPIENT** enters into under the Agreement.

Exhibit F

TITLE VI ASSURANCES

Title VI Standard Terms And Conditions (Sub-Recipients)

1) Civil Rights

a. Non-Discrimination Assurances

i. As required by federal law, **SUB-RECIPIENT** certifies that it will comply with all applicable federal and state statutes relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e).

ii. **SUB-RECIPIENT** shall comply with the administrative rules of the U.S. Department of Transportation (DOT) relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

iii. **SUB-RECIPIENT** shall not discriminate on grounds of race, color, or national origin of any individual in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. **SUB-RECIPIENT** shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21. 5 including employment practices.

iv. These assurances concerning nondiscrimination also apply to sub-contractors and supplies of **SUB-RECIPIENT**. These apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment. Each potential sub-contractor or supplier shall be notified by **SUB-RECIPIENT** of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, or national origin of any individual.

v. **SUB-RECIPIENT** assures that, as a condition of receiving reimbursements under this Agreement, that it will not discriminate on grounds of race, color, or national origin of an individual in the performance of any services under this Agreement, including the selection and retention of sub-contractors and the procurement of materials and leases of equipment.

b. **SUB-RECIPIENT** shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

c. The terms of this paragraph shall apply to all solicitations either by competitive bidding or negotiation made by **SUB-RECIPIENT** for work to be performed under a subcontract including procurement of materials or equipment, and **SUB-RECIPIENT** shall notify each potential subcontractor, supplier, or lessor of **SUB-RECIPIENT's** obligations under this Agreement.

d. Each of the statutes, regulations, or rules, including any later amendments, listed in this paragraph are incorporated by reference and made a part of this Agreement.

e. **SUB-RECIPIENT** shall include these provisions in every sub-contract, including procurement of materials or leases of equipment.

f. Failure to carry out the requirements set forth in this paragraph shall constitute a breach of contract and may result in termination of this Agreement or other remedy that is deemed appropriate.

EXHIBIT G

5317 Project Operating Budget

SUB-RECIPIENT's Name Wichita Transit

Budget Year - 11/1/13 – 5/1/15

Personnel:

- Driver

Fuel

Misc. *

Total Operating Cost

Project Income

Operating Subtotal \$115,828

Local Match

\$0

5317 Reimbursement

\$115,828

Total Project Cost

\$115,828

***If misc. expense is reflected in budget, please identify below.**

EXHIBIT H

WAMPO Info Sheet

Date

Project Number
(completed by WAMPO)

SUB-RECIPIENT's Name

Wichita Transit

SUB-RECIPIENT's
Federal Tax ID Number
(FEIN)

SUB-RECIPIENT's Dun &
Bradstreet Number
(DUNS)

SAM Expiration Date
(System for Award Management)

SAM Number

SUB-RECIPIENT Mailing
Address

Phone Number

Fax Number

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council Members

SUBJECT: Selection of Vendors for the Computer PC Accessories and Peripherals

INITIATED BY: IT/IS

AGENDA: Consent

Recommendation: Approve the contract and authorize the necessary signatures.

Background: The City purchases computer hardware, support services and maintenance, PC and monitor removal, and PC accessories and peripherals through a bid process based on each requirement. To secure volume pricing/discounts, staff explored securing a master contract for computer hardware support services and maintenance, PC and monitor removal, and PC accessories and peripherals in 2000, 2003 and 2007. In 2003, it was determined that by splitting the contract into four sections: (Computer Hardware, Support Services and Maintenance, PC and Monitor Removal, and PC Accessories and Peripherals), the City of Wichita could attain optimal pricing; each being awarded on its own merit. In February 2008, the IT Department began using student interns to replace the need for Support Services and Maintenance. This provided the City considerable cost savings. In 2013, individual Request for Proposals were sent out for Computer Hardware, PC and Monitor Removal, and PC Accessories and Peripherals. The City Council is being asked to approve a vendor contract to supply Computer PC Accessories and Peripherals.

Analysis: A competitive Request for Proposal (RFP) for Computer Accessories and Peripherals was posted; and three responses were received for the RFP. A staff screening and selection committee consisting of the IT/IS Interim Help Desk Manager, the IT/IS Help Desk Lead Analyst, two IT/IS Operations Analysts, a Budget Analyst, a Purchasing Analyst, a representative from Law and a representative from the City Manager's Office reviewed and evaluated the proposals based on the criteria set forth in the Request for Proposal.

Global Government/ Educational Solutions' proposal for PC accessories and peripherals was competitively priced and the company maintains a large inventory to ensure same day shipping on most products. The City will incur no shipping costs from Global for orders over \$500.

Financial Considerations: Computer Accessories and Peripherals costs are within departmental operating budgets.

Legal Considerations: The Law Department has reviewed and approved the contract as to form. The contract will be for one year with an annual renewal option for an additional two years.

Recommendation/Action: It is recommended that the City Council approve the contract, and authorize the necessary signatures.

Attachments: Contract for Computer PC Accessories and Peripherals.

CONTRACT
for
Computer PC Accessories and Peripherals

BLANKET PURCHASE ORDER NUMBER BP340095

THIS CONTRACT entered into this **November 1, 2013**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **GLOBAL GOVERNMENT/EDUCATION SOLUTIONS**, (Vendor Code Number 801386 – 001 whose principal office is at 6990 State Route 36 East, Fletcher, Ohio, 45326, Telephone Number (1-888-445-2725) hereinafter called "**VENDOR**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Computer PC Accessories and Peripherals** (Formal Proposal – FP340042) [Commodity Code Number 93921]; and

WHEREAS, **VENDOR** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services.** **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP340042, [Commodity Code Number 93921] which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications and plans provided by the City of Wichita as part of the proposal letting process for Formal Proposal FP340042, shall be considered a part of this contract and is incorporated by reference herein.
2. **Compensation.** **CITY** agrees to pay to **VENDOR** for **unit price** for **Computer PC Accessories and Peripherals** - Formal Proposal – FP340042 [Commodity Code Number 93921], for the Information Technology Department / Information Services as per the proposal specifications and **VENDOR'S** proposal of **August 28, 2013** and as approved by the City Council on **October 22, 2013**.

Pricing on PC Accessories and Peripherals will not exceed and will be subject to the National Government /Educational Pricing from vendor. The City will have the opportunity to take advantage of special promotions and lower pricing if available. All products will be shipped FOB Destination.

Billing Terms – Net Thirty (30) Days

3. **Term.** The term of this contract shall be from, **November 1, 2013, through November 1, 2014**, with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.
4. **Indemnification and Insurance.**
 - a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.
5. **Independent Contractor.** The relationship of the **VENDOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.
6. **Compliance with Laws.** **VENDOR** shall comply with all laws, statutes and ordinances, which may pertain to the providing of services under this Contract.
7. **No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.
8. **Non-Discrimination.** **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.
9. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. **No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in proposal documents is deemed void.
11. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.
12. **Representative's Authority to Contract.** By signing this contract, the representative of the contractor or vendor represents the he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

Janis Edwards
Deputy City Clerk

Carl G. Brewer
Mayor

APPROVED AS TO FORM:

Gary E. Rebenstorf
Director of Law

**GLOBAL GOVERNMENT/EDUCATION
SOLUTIONS**

Jarrod Scott
Signature

Jarrod Scott
Print Name

Officer-Delegate; Sales Manager_
Title (President or Corporate Officer)

Systemax Inc.

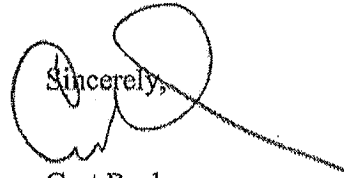
11 Harbor Park Drive Port Washington, NY 11050
516.608.7000 / Fax 516.625.0038

Date: October 4, 2013

To Whom It May Concern:

Global Gov/Ed Solutions Inc. hereby delegates to Jarrod Scott, Sales Manager, the authority to negotiate, enter into, and sign applications with The City of Wichita (Customer), regarding Bid List Applications, Bids and Contracts.

Sincerely,

A handwritten signature in black ink, appearing to be 'Curt Rush', written over the word 'Sincerely,'.

Curt Rush
Corporate Secretary

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated there under.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, sub purchase order or sub agreement so that such provisions will be binding upon each subcontractor, sub vendor or sub supplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**City of Wichita
City Council Meeting
October 22, 2013**

TO: Mayor and City Council Members

SUBJECT: Ordinance Changes to the Wichita/Sedgwick County Building & Trade Code

INITIATED BY: Metropolitan Area Building & Construction Department

AGENDA: Consent

Recommendation: Approve ordinance changes to the Wichita/Sedgwick County Building & Trade Code.

Background: On January 1, 2013, the City of Wichita Office of Central Inspection and the Sedgwick County Code Department were merged to form the Metropolitan Area Building and Construction Department (MABCD). The following proposed code changes represent a continued merging of code practices between the City of Wichita and Sedgwick County within this merger. The National Electrical Code (NEC), published by the National Fire Protection Association, is revised and updated every three years in order to keep current with changing industry standards, technology advances and practices. The 2011 edition of the NEC is the latest and most current edition. The Board of Electrical Appeals (Board) along with MABCD staff has reviewed the proposed changes and formally recommends these changes to the City Council for adoption.

Analysis: The amendments recommended by the Board and staff are summarized below and include the reason/s for each recommendation.

- a) **Two Year License Renewal:** Prior to the City-county merge of code departments, the City of Wichita required an annual renewal of licenses (for electrical contracting businesses) and certificates (for each qualified electrician). Sedgwick County required re-licensing and re-certifications every two years. At the request of the customers, and in an effort to build consistency of practice within the merger, the proposed code change would allow MABCD to facilitate a two-year cycle for all license renewals including electrical and elevator trades.
- b) **Homeowner Plan Submittal Regarding Electrical Work:** Occasionally an individual homeowner chooses to perform their own electrical wiring rather than use the services of a licensed electrician. The City of Wichita has historically required a basic plan to be submitted from homeowners who wish to perform electrical wiring within their own homes when the work is of such sophistication that it requires permit and inspection. The previous Sedgwick County code department had no such requirement. After review by unified staff and the Board, it was determined that a basic plan be submitted by homeowners to insure safety of the work. The proposed code change ensures consistent expectation throughout the City of Wichita and within Sedgwick County under the jurisdiction of MABCD.
- c) **Removal of Permit Exceptions:** Historically, the Sedgwick County code staff allowed two permit exceptions regarding certain types of electrical work. In one instance, permits were not required concerning temporary wiring for experimental purposes and, in the second, permits were not required for electrical operations that were less than 25 volts and not capable of supplying more than 50 watts of energy. After review by the unified staff and the Board, it was determined that bona fide safety issues resonated due to these exceptions. To enhance public safety and bring further unification to the electrical code, staff and the Board recommend the removal of these two exceptions from the code.

- d) **Wiring of Heating Units:** Historically, the City of Wichita has required that heating units be wired directly into the building wiring when the units are placed in spaces intended for human occupancy. The Sedgwick County code had no such requirement. After review by the unified staff and Board, it was determined that direct wiring of units into the building wiring was a more safe practice. To enhance public safety and bring further unification to the electrical code, staff and the Board recommend this change.

Financial Considerations: There are no proposed amendments to Wichita/Sedgwick County Building and Trade Code permit, license, certification or examination fees.

Legal Considerations: The recommended ordinance revisions have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the proposed amendments to the Wichita/Sedgwick County Building and Trade Code.

Attachment: Clean Ordinance and Delineated Ordinance

10/1/2013

ORDINANCE NO. 49-593

AN ORDINANCE AMENDING SECTIONS 4.1.060, 4.1.050, 4.1.120 AND 4.2.230; AND REPEALING THE ORIGINALS OF SECTIONS 4.1.060, 4.1.050, 4.1.120 AND 4.2.230; OF THE WICHITA/SEDGWICK COUNTY UNIFIED BUILDING AND TRADE CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1.

SECTION 4.1.060. – License—Issuance of general electrical is hereby amended to read as follows:

“One electrical license may be issued to any person who is the owner or full time employee of one company only, possessing a valid master electrician's certificate issued by the MABCD, which license shall expire on the thirty-first day of December every two (2) years, beginning in 2013, such that each license shall expire on the thirty-first day of December on each subsequent odd-numbered year. An electrical license may be issued to any firm or corporation of which at least one active member or officer who devotes full time to that firm or corporation and has qualified as and holds a master electrician's certificate; provided a separate license shall be issued for each place of business operated by such firm or corporation.”

SECTION 2.

SECTION 4.1.050 – Electrical work performed by owner-occupants of owner-occupied or to be owner-occupied detached single-family dwellings is hereby amended to read as follows:

“Repairs, Replacements, and Maintenance. A person who has received approval of a schematic electrical drawing from the electrical inspector or showing the proper electrical symbols and all the circuitry for the complete project, shall be issued a permit to alter, repair, replace, or maintain any electrical work on the load side of the service panelboard in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings in connection with such buildings in the event that such person is the bona fide owner of such dwelling and accessory buildings, and that the same are occupied by the owner, provided, that said owner shall personally perform all labor in connection therewith. Said person shall call for inspections and otherwise observe all the applicable provisions of this Code.

New Installations in Existing Single-family Residences. The owner-occupant of a detached single-family dwelling may obtain a permit for any electrical installations on the load side of the service panelboard in the main structure and the usual accessory buildings thereto upon fulfillment of exam and plan review requirements as outlined elsewhere in this section. The owner obtaining said permit shall personally purchase all materials and shall personally perform all labor in connection with the permitted project. The owner shall call for all inspections and otherwise observe all the applicable provisions of this Code.

Electrical Installations by Owner-occupants Constructing New Single-family Residences. Persons constructing a new detached single-family residence for their own personal use

may be permitted to install all electrical work, on the load side of the service panelboard, in the main structure and the usual accessory structures thereto upon fulfillment of exam and plan review requirements as outlined elsewhere in this section. The owner-occupant shall call for inspections and otherwise observe all of the applicable provisions of this Code; provided, however, that the service entrance raceway, service entrance conductors, meter base, and service panelboard shall be installed by a licensed electrical contractor. The contractor shall call for the service related inspections.

Examinations and Plan Reviews for Installations Required. Owner-occupants applying for permits for installations as outlined above shall first qualify themselves by successfully passing a simplified open book examination dealing with relevant provisions of the Electrical Code. The fee for said examination shall be established by the Director of the MABCD to cover the administrative costs. Successful passage of the examination shall qualify the applicant for future permits until the time of the adoption of another edition of the National Electrical Code by the MABCD.

Prior to permit approval, the applicant shall submit a plan of the installation drawn in a format acceptable in sufficient details to satisfy the code official of the overall code compliance of the anticipated drawing showing the proper electrical symbols and all the circuitry for the complete project. The fee for such plan review shall be established by the Director of the MABCD to cover the administrative costs. Plan submissions requiring extensive review and/or modification may be billed at a rate established by the Director of the MABCD to cover the administrative costs for each additional half hour or portion thereof beyond the original half hour upon prior notification of the applicant of such additional charges.

Permit fees shall be as set forth elsewhere in this Section and in Article 2 of this Code; provided, however, that each additional inspection owing to detected code deficiencies requiring correction shall be billed at a rate established by the Director of the MABCD to cover the administrative costs. Permits for electrical installations shall be limited to one in three years to each applicant unless a waiver is obtained, upon written application, from the board of electrical appeals.”

SECTION 3.

SECTION 4.1.120.– Work exempt from permit is hereby amended to read as follows:

“The following work shall be exempt from the requirement for a permit.

- (a) Listed cord and plug connected temporary decorative lighting;
- (b) Repair or replacement of branch circuit overcurrent devices of the required capacity in the same location; and
- (c) Communication wiring except as required by Chapter 3.40 of the Code of the City of Wichita

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for work to be done in violation of the provisions of this Code or other laws or ordinances of this jurisdiction.

"Temporary" as used in this section is a period of time not to exceed ninety (90) days in a calendar year.”

SECTION 4.

SECTION 4.2.230.– Provisions for heating units is hereby amended to read as follows:

“Where a heating unit is installed for the unit or space intended for human occupancy per the requirements set forth in Article 5, the heating unit shall be directly wired into the building wiring with a disconnecting means installed in a readily accessible location within sight from the heating unit.”

SECTION 5.

The originals of Sections 4.1.060, 4.1.050, 4.1.120 and 4.2.230 are hereby repealed.

SECTION 6.

The Board of County Commissioners has approved the above changes on October , 2013.

SECTION 7.

This ordinance shall be included in the Wichita/Sedgwick County Unified Building and Trade Code, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 5th day of November, 2013.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

First Published in The Wichita Eagle on _____

DELINEATED

10/1/2013

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 4.1.060, 4.1.050, 4.1.120 AND 4.2.230; AND REPEALING THE ORIGINALS OF SECTIONS 4.1.060, 4.1.050, 4.1.120 AND 4.2.230; OF THE WICHITA/SEDGWICK COUNTY UNIFIED BUILDING AND TRADE CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1.

SECTION 4.1.060. – License—Issuance of general electrical is hereby amended to read as follows:

“One electrical license may be issued to any person who is the owner or full time employee of one company only, possessing a valid master electrician's certificate issued by the MABCD, which license shall expire on the thirty-first day of December ~~of the year in which issued~~ every two (2) years, beginning in 2013, such that each license shall expire on the thirty-first day of December on each subsequent odd-numbered year. An electrical license may be issued to any firm or corporation of which at least one active member or officer who devotes full time to that firm or corporation and has qualified as and holds a master electrician's certificate; provided a separate license shall be issued for each place of business operated by such firm or corporation.”

SECTION 2.

SECTION 4.1.050 – Electrical work performed by owner-occupants of owner-occupied or to be owner-occupied detached single-family dwellings is hereby amended to read as follows:

“Repairs, Replacements, and Maintenance. A person who has received approval of a schematic electrical drawing from the electrical inspector or showing the proper electrical symbols and all the circuitry for the complete project, shall be issued a permit to alter, repair, replace, or maintain any electrical work on the load side of the service panelboard in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings in connection with such buildings in the event that such person is the bona fide owner of such dwelling and accessory buildings, and that the same are occupied by the owner, provided, that said owner shall personally perform all labor in connection therewith. Said person shall call for inspections and otherwise observe all the applicable provisions of this Code.

New Installations in Existing Single-family Residences. The owner-occupant of a detached single-family dwelling may obtain a permit for any electrical installations on the load side of the service panelboard in the main structure and the usual accessory buildings thereto upon fulfillment of exam and plan review requirements as outlined elsewhere in this section. The owner obtaining said permit shall personally purchase all materials and shall personally perform all labor in connection with the permitted project. The owner shall call for all inspections and otherwise observe all the applicable provisions of this Code.

Electrical Installations by Owner-occupants Constructing New Single-family Residences.

Persons constructing a new detached single-family residence for their own personal use may be permitted to install all electrical work, on the load side of the service panelboard, in the main structure and the usual accessory structures thereto upon fulfillment of exam and plan review requirements as outlined elsewhere in this section. The owner-occupant shall call for inspections and otherwise observe all of the applicable provisions of this Code; provided, however, that the service entrance raceway, service entrance conductors, meter base, and service panelboard shall be installed by a licensed electrical contractor. The contractor shall call for the service related inspections.

Examinations and Plan Reviews for Installations Required. Owner-occupants applying for permits for installations as outlined above shall first qualify themselves by successfully passing a simplified open book examination dealing with relevant provisions of the Electrical Code. The fee for said examination shall be established by the Director of the MABCD to cover the administrative costs. Successful passage of the examination shall qualify the applicant for future permits until the time of the adoption of another edition of the National Electrical Code by the MABCD.

~~The following shall apply only within the City of Wichita jurisdiction:~~

Prior to permit approval, the applicant shall submit a plan of the installation drawn in a format acceptable in sufficient details to satisfy the code official of the overall code compliance of the anticipated drawing showing the proper electrical symbols and all the circuitry for the complete project. The fee for such plan review shall be established by the Director of the MABCD to cover the administrative costs. Plan submissions requiring extensive review and/or modification may be billed at a rate established by the Director

of the MABCD to cover the administrative costs for each additional half hour or portion thereof beyond the original half hour upon prior notification of the applicant of such additional charges.

Permit fees shall be as set forth elsewhere in this Section and in Article 2 of this Code; provided, however, that each additional inspection owing to detected code deficiencies requiring correction shall be billed at a rate established by the Director of the MABCD to cover the administrative costs. Permits for electrical installations shall be limited to one in three years to each applicant unless a waiver is obtained, upon written application, from the board of electrical appeals.”

SECTION 3.

SECTION 4.1.120.– Work exempt from permit is hereby amended to read as follows:

“The following work shall be exempt from the requirement for a permit.

- (a) Listed cord and plug connected temporary decorative lighting;
- (b) Repair or replacement of branch circuit overcurrent devices of the required capacity in the same location; and
- (c) Communication wiring except as required by Chapter 3.40 of the Code of the City of Wichita

~~In the Sedgwick County jurisdiction, the following installations are additionally exempt from permit:~~

- ~~(d) Temporary wiring for experimental purposes in suitable experimental laboratories; and~~
- ~~(e) Electrical wiring devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.~~

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for work to be done in violation of the provisions of this Code or other laws or ordinances of this jurisdiction.

"Temporary" as used in this section is a period of time not to exceed ninety (90) days in a calendar year."

SECTION 4.

SECTION 4.2.230.– Provisions for heating units is hereby amended to read as follows:

~~"This Section 4.2.230 only applies in the jurisdiction of the City of Wichita.~~

Where a heating unit is installed for the unit or space intended for human occupancy per the requirements set forth in Article 5, the heating unit shall be directly wired into the building wiring with a disconnecting means installed in a readily accessible location within sight from the heating unit."

SECTION 5.

The originals of Sections 4.1.060, 4.1.050, 4.1.120 and 4.2.230 are hereby repealed.

SECTION 6.

The Board of County Commissioners has approved the above changes on October , 2013.

SECTION 7.

This ordinance shall be included in the Wichita/Sedgwick County Unified Building and Trade Code, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2013.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

CITY OF WICHITA
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Sale of City Property at the Southeast Corner of Oliver and Kellogg (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sale.

Background: As a result of the development of the Kellogg/Oliver Interchange, there was a 16,816 square foot remnant at the southeast corner of Kellogg and Oliver. The owner of the land surrounding the City-owned parcel approached the City about trading part of the City-owned parcel for an equivalent amount of land he owned on the southwest corner. On August 6, 2002, the City Council approved trading 8,407 square feet of this parcel for an 8,407 square foot rectangle located at the southwest corner of the intersection. A party proceeding with development of the adjacent property has approached the City about buying the parcel.

Analysis: After retention of needed right of way, there is approximately 5,150 square feet available for sale. The City has received an offer of \$10 per square foot for the site plus \$10,000 to cover the cost of relocation of site irrigation. The site will be incorporated with adjacent land to be developed for a convenience store.

Financial Considerations: The City will receive cash consideration for the sale of the property. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council approve the real estate purchase agreement and authorize all necessary signatures.

Attachments: Real estate purchase agreement and aerial.

REAL ESTATE SALE CONTRACT

THIS AGREEMENT, Made and entered into this ____ day of _____, 2013 by and between the City of Wichita, a municipal corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and Dillon Real Estate Co., Inc., a Kansas corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed the following described real property, situated in Sedgwick County, Kansas, to-wit: A portion of the North 1/2 , Eilert's Addition to the City of Wichita, Sedgwick County, Kansas (The "Property").

The exact legal description to be determined by survey as described below.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to it of the above-described real property, the sum of Ten Dollars and Zero Cents (\$10.00) per square foot to be paid in cash or wire transfer of immediately available U.S. funds at closing.
3. Seller and Buyer agree to convey title in and to the above-described real property by general warranty deed, subject to easements, restrictions and special assessments of record, if any, acceptable to the Buyer. In the event an Owners title insurance policy is furnished, the cost of the commitment to insure and the title insurance policy will be paid equally by Buyer and Seller. Buyer shall have thirty (30) days after the later to occur of (i) execution of this Agreement or (ii) receipt of all of the following: (a) the Title Commitment, (b) the Survey, and (c) legible copies of all liens and encumbrances enumerated in the Title Commitment, to notify Seller of any Exceptions in the Title Commitment or any matter disclosed by the Survey which makes the Property unsuitable for Buyer's purposes, in Buyer's sole judgment ("Title Objections"). Seller thereupon shall have thirty (30) days within which to cause such Title Objections to be removed from the Title Commitment or cause the matters reflected on the Survey to be removed, as the case may be ("Cure"). In the event that Seller is unable or unwilling to effect such Cure, then Buyer, at its option, may select (i) to terminate this Agreement, whereupon the parties hereto shall have no further obligations hereunder except for any obligation hereunder which, by its express terms, survives any termination of this Agreement, or (ii) to waive such Title Objections and to proceed to Closing, as set forth in Section 10, in which event the cost to effect the Cure may be deducted by Buyer from the Purchase Price. All Exceptions approved by Buyer or Title Objections subsequently waived in writing shall hereinafter be deemed to be "Permitted Exceptions".
4. A duly executed copy of this Agreement shall be delivered to the parties hereto.
5. It is further agreed by and between the parties hereto that all taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described Property in the same condition as it is now, reasonable wear and tear excepted.
7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.
8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before January 31, 2014. The closing shall occur in escrow through the office of Fidelity National Title Insurance Company, 4111 Executive Parkway, Westerville, OH 43081, Attention: Susan Gibson ("Title Company").
9. Possession to be given to Buyer at closing
10. Closing costs shall be paid 50% by Buyer and 50% by Seller.
11. Buyer shall commission and pay for a survey satisfactory to Buyer to determine the exact size and legal description of the sale parcel.
12. The survey referenced above shall detail the Seller's irrigation system sufficient to allow the relocation of said system. Seller shall be responsible for the relocation of the irrigation system, said relocation to be completed within 30 days after closing. Buyer shall reimburse the cost of removal of said system, up to \$10,000, to Seller.
13. The parties covenant and agree that except for closing, title insurance, survey and commissions referenced elsewhere herein, each is solely responsible for the payment of any fee for brokerage, technical or other professional services relating to the execution and performance of this Agreement incurred by such party.
14. Seller makes no warranty or guarantee as to the suitability of the real property proposed for trade for the intended use of Buyer. Therefore, Buyer covenants and agrees that Buyer at Buyer's own expense, shall examine the real property for a period of 120 days from the date of this Agreement ("Due Diligence Period") in order to determine such suitability including but not limited to:
 - A. Soils data and geology, drainage, hydrology and topographical features that would affect any present or future intended use;
 - B. The presence or absence of any contamination by any hazardous substance;
 - C. The quality and quantity of water available by on-site water wells, and the availability of a permit or permits therefore;
 - D. The nature, extent, and cost of public utilities needed to serve all or a portion of such real property;
 - E. The extent and cost of compliance with subdivision regulations, building codes and other applicable rules and regulations involving public improvements, private improvements, access, building setbacks, public dedications, platting and replatting requirements of such real property;
 - F. The nature and extent of zoning and subdivision statutes, laws, ordinances

and regulations affecting the present use, and the ease or difficulty involved in the zone-change and subdivision approval procedures necessary or desirable to allow for the Buyer's intended use or uses.

15. Buyer also covenants and agrees that Buyer, his agents, successors and assigns any future use of the property as described above for the following uses shall be prohibited:
 - A. Adult Book and Video Stores
 - B. Community Correctional Facilities
 - C. Half-way Houses
 - D. Drug or Alcohol Rehabilitation Facilities
 - E. Multi-game, Casino-style Gambling Facilities
 - F. New or Used Car Sales
 - G. Commercial Billboards
16. Buyer performing its standard sales forecast and financial analysis on the proposed convenience store project with results acceptable to The Kroger Co. capital committee. IN THE EVENT any of the conditions set forth in Paragraph 14 are not completed to the satisfaction of Buyer, Buyer shall have the option to terminate this Agreement, in which event this Agreement shall be terminated. Buyer may waive any of the conditions set out in Paragraph 14 with Seller to be notified in writing of said waiver.
17. The covenants and agreements contained in Paragraphs 14 and 15 shall survive the closing of the sale intended hereby, and they shall bind the buyer as fully after the sale as they do before.
18. Buyer hereby agrees; a) Buyer is accepting the subject property on an "AS IS" basis and in "AS IS" condition; and that Buyer's decision to enter into this Agreement and any future decisions it may make with regard to the property have been and will be made based on its own inspections. Buyer acknowledges that no representations or warranties as to character, quality, value, or condition have been made by any of the brokers or agents involved, and also agrees not to make any claim against the Seller or the brokers involved.
19. Seller shall pay a commission of 6 percent of the gross purchase price in cash at closing to J.P. Weigand & Sons, Inc. J.P. Weigand & Sons, Inc. and Grant Tidemann are functioning as transaction brokers in this transaction. Seller and Buyer warrant that other than J.P. Weigand & Sons, Inc. no other real estate brokers have been involved in the transaction contemplated herein.
20. Seller acknowledges that the Premises is a portion of a larger tract of real property ("Adjacent Property") which Buyer desires to acquire in order to utilize the Premises for its intended purpose, and Seller agrees that Closing hereunder shall be conditioned upon a simultaneous closing on the Adjacent Property. In the event that Purchaser is unable to contract for the purchase and to close on the Adjacent Property at the time scheduled for Closing hereunder, then Closing shall be extended by thirty (30) days. If Buyer is unable to contract for the purchase and close on the Adjacent Property at the time scheduled for Closing after such extension, then Buyer, at its option may (i) proceed to close on the

purchase of the Property, or (ii) terminate this Agreement, whereupon the parties hereto shall have no further obligations hereunder except for any obligation hereunder which, by its express terms, survives any termination of this Agreement.

21. Buyer shall have the option, at any time prior to Closing, to convert the transaction contemplated by this Agreement to a tax-deferred exchange under Section 1031 of the Internal revenue Code of 1986, as amended. If Buyer so elects to effect a tax-deferred exchange, Seller agrees to participate in the tax-deferred exchange in such manner as reasonably designated or determined by Buyer and to execute such escrow instructions, documents, agreements or instruments to effect a tax-deferred exchange as Buyer may reasonably request, it being understood that Seller shall not be obligated to expend more money or to incur any costs, expenses or liabilities which would not otherwise have been incurred by Seller hereunder, or would not be reimbursed or indemnified by Buyer, as a result of or connected with the tax-deferred exchange. Buyer further acknowledges that Seller shall not be obligated to take title to the exchange property. Buyer may assign its rights and delegate its duties under this Agreement, in whole or in part, to a third party in order to effect a tax-deferred exchange, provided Buyer shall be responsible for the full and prompt performance of any delegated duties. Buyer shall indemnify and hold Seller harmless from and against any claims, expenses, losses or liabilities (including reasonable attorneys' fees) resulting from Seller's participation in a tax-deferred exchange undertaken pursuant to this paragraph, except as a result of Seller's breach of its obligations hereunder, its gross negligence or willful misconduct.
22. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given when: (a) delivered personally, (b) three (3) days after deposit with the U.S. Postal Service certified with a return receipt, or (c) upon deposit with a nationally recognized overnight courier, to the parties, their successors in interest or their assigns at the following addresses:

TO BUYER:

Clay Brasher
Director of Real Estate
Kwik Shop, Inc.
734 East 4th Avenue
Hutchinson, KS 67501

TO SELLER:

City of Wichita
455 North Main, 13th Floor
Wichita, Kansas 67202
Attn: John C. Philbrick, Real
Estate Administrator

WITH A COPY TO:

The Kroger Co.
1014 Vine Street
Cincinnati, Ohio 45202-1100
Attention: Erica Pontius, Attorney -- Law Department

23. RISK OF LOSS. If the Property or any portion thereof is damaged by casualty, force majeure or other cause, then Buyer, at its option may elect (i) to deduct the cost of

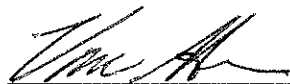
restoration, as determined by Buyer's engineer, from the Purchase Price, and to proceed in accordance with the terms and conditions of this Agreement, or (ii) to terminate this Agreement, whereupon the parties hereto shall have no further obligations hereunder.

24. **CONDEMNATION AND EMINENT DOMAIN.** In the event that condemnation and eminent domain proceedings are commenced or Buyer has reasonable cause to believe that such proceedings hereafter may be commenced, then Buyer may elect to terminate this Agreement by giving written notice to Seller, whereupon the parties hereto shall have no further obligations hereunder. In the event of an actual taking in condemnation, eminent domain, or a conveyance in lieu thereof prior to Closing, then Buyer, at its option, may (i) proceed to Closing, in which event the Purchase Price shall be reduced by the amount of the condemnation or eminent domain award, or the sales price, in the event of a conveyance in lieu of condemnation, if such amounts are paid prior to Closing, or (ii) terminate this Agreement whereupon the parties hereto shall have no further obligations hereunder. Seller shall not convey any portion of the Property and shall not agree to any condemnation or eminent domain settlement without Buyer's prior written consent, and any condemnation or eminent domain award not paid prior to Closing shall be assigned to Buyer at Closing.

WITNESS OUR HANDS AND SEALS the day and year first above written.

BUYER

Dillon Real Estate Co., Inc.



Van S. Tarver, Vice President and
Secretary

SELLER

By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law



Southeast Corner of Oliver and Kellogg



<input type="checkbox"/>	Identified Features
<input type="checkbox"/>	Historic Districts
<input type="checkbox"/>	Property Parcels
<input type="checkbox"/>	Roads
<input type="checkbox"/>	State Highway
<input type="checkbox"/>	US Federal Highway
<input type="checkbox"/>	Interstate
<input type="checkbox"/>	KTA
<input type="checkbox"/>	Arterial
<input type="checkbox"/>	Collector
<input type="checkbox"/>	Minor
<input type="checkbox"/>	Ramp
<input type="checkbox"/>	Railroads
<input type="checkbox"/>	Quarter Section
<input type="checkbox"/>	Waterways
<input type="checkbox"/>	Streams
<input type="checkbox"/>	Parks
<input type="checkbox"/>	Airports
<input type="checkbox"/>	SDERASTER.S-DEDATA.ORTH-01FT
<input type="checkbox"/>	SDERASTER.S-DEDATA.ORTH-0
<input type="checkbox"/>	City Limits
<input type="checkbox"/>	Andale
<input type="checkbox"/>	Bel Aire
<input type="checkbox"/>	Bentley
<input type="checkbox"/>	Cheney
<input type="checkbox"/>	Clearwater
<input type="checkbox"/>	Colwich
<input type="checkbox"/>	Derby
<input type="checkbox"/>	Eastborough
<input type="checkbox"/>	Garden Plain
<input type="checkbox"/>	Goddard
<input type="checkbox"/>	Haysville
<input type="checkbox"/>	Wichita




Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: Termination of Agreement - Planeview Community Library (District III)

INITIATED BY: Library 

AGENDA: Consent

Recommendation: Approve the termination agreement.

Background: Since 2003, public library service for the Planeview neighborhood has been delivered at Colvin Elementary School through a partnership between the Wichita Public Library and the Wichita Public Schools. As outlined in an operational memorandum of agreement, either entity could initiate termination of the agreement and operation of the shared use library with 60 days written notice. On September 18, 2013, Wichita Public Schools provided notice of its intent to exercise this termination option and to cease operation of the Planeview Community Library.

Analysis: Through September 30, the Planeview Community Library had circulated 2,296 items to the public during 2013. According to school records, the library received 54 public library visitors from May 30th through September 18th with only five individuals using the library more than once during that time.

A public library service transition plan has been prepared and is being implemented by the Wichita Public Library. Individuals who use the Planeview library for public computing service will be referred to the Colvin Neighborhood City Hall. People who borrow materials from the library will be referred to other Wichita Public Library locations or may be served through modified homebound delivery programs coordinated through the Colvin Neighborhood City Hall. Wichita Public Library materials in the adult, teen and children's media collections as well as the children's beginning to read and children's world language collections will be transferred to other Wichita Public Library locations. All copies of children's books that are not available from any other Wichita Public Library will be returned to the Central Library.

Approximately 3,000 children's fiction, non-fiction and picture books are currently assigned to the Planeview library. Although the school district has been responsible for all children's book acquisition for the library since 2003, the school continues to be dependent upon City materials for supporting student reading needs. Due to the lack of space in other Wichita Public Library locations and the relative age and condition of the books, the Library Board of Directors has recommended that ownership of these items be transferred from the City to the school district.

Financial Considerations: The estimated value of the materials to be left with the school district is between \$5,000 and \$10,000. This is less than the costs incurred by the school district to provide public library service in the neighborhood for the past decade.

Legal Considerations: The Law Department has reviewed and approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the termination agreement and authorize the necessary signatures.

Attachments: Termination of Memorandum of Agreement

Termination of Memorandum of Agreement For Delivery of Library Service from the Colvin School Library

This Termination of Memorandum of Agreement is entered into on the ____ day of _____, 2013, between Unified School District No. 259, Sedgwick County, Kansas (the "Wichita Public Schools") and the City of Wichita, Kansas through the Wichita Public Library (the "City").

In June 2013 the Wichita Public Schools and the City entered into a Memorandum of Agreement for delivery of library service from the Colvin School Library; and

The Wichita Public Schools has since decided that it is in its best interests to terminate the Memorandum of Agreement.

For consideration set forth in this Termination of Memorandum of Agreement, the Wichita Public Schools and the City agree:

SECTION 1. Termination. Effective November 15, 2013, the Memorandum of Agreement of June 2013 between the Wichita Public Schools and the City is terminated and the operation of a library in Colvin Elementary School that is open to the public will cease as of November 15 2013.

SECTION 2. Property. USD Library Media and Textbook Services and City Library staff will work jointly to reconcile collection inventories and to complete redistribution of books to be removed from the Colvin School Library collection no later than May 30, 2014.

SECTION 3. All signage referencing the "Planeview Community Library" will be removed by from all Wichita Public School signage no later than November 15, 2013.

IN WITNESS WHEREOF, the parties have entered into this Termination of Memorandum of Agreement to be effective as of the date of its signing:

CITY OF WICHITA, KANSAS

UNIFIED SCHOOL DISTRICT NO. 259,
SEDGWICK COUNTY, KANSAS

By _____
Carl Brewer, Mayor
Date: _____

By _____
Jeff Davis, President of the Board of Education
Date: _____

ATTEST:

By _____
Steve Roberts, President
Library Board of Directors

By _____
Mike Willome, Clerk of the Board of Education

ATTEST:

By _____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By _____
Gary Rebenstorf, Director of Law

Second Reading Ordinances for October 22, 2013 (first read on October 8, 2013)

A. Drought Plan

ORDINANCE NO. 49-585

AN ORDINANCE AMENDING CHAPTER 17.14 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DROUGHT RESPONSE ACTIONS AND REPEALING THE PRIOR VERSION OF SAID CHAPTER.

B. Public Hearing for West Bank Apartments TIF Project Plan. (District VI)

ORDINANCE NO. 49-586

AN ORDINANCE ADOPTING A REDEVELOPMENT PROJECT PLAN FOR THE WEST BANK APARTMENTS PROJECT AREA LOCATED WITHIN THE EAST BANK REDEVELOPMENT DISTRICT PURSUANT.

C. Approval of the Development Agreement for the Exchange Place Project. (District VI)

ORDINANCE NO. 49-587

A HOME RULE ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS AND THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF ACQUIRING REAL PROPERTY, DEMOLITION OF EXISTING STRUCTURES, AND DESIGN AND CONSTRUCTION OF A PARKING GARAGE, AND SITE IMPROVEMENTS RELATED TO THE CENTER CITY SOUTH REDEVELOPMENT DISTRICT, EXCHANGE PLACE PROJECT AREA.

D. Improvements to Kellogg from Cypress to 159th Street East. (District II)

ORDINANCE NO. 49-589

AN ORDINANCE DECLARING KELLOGG, BETWEEN THE KANSAS TURNPIKE AND WEBB ROAD (472-85031) TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

E. PUBLIC HEARING FOR WEST BANK APARTMENTS RIF PROJECT PLAN.
(DISTRICT VI)

ORDINANCE NO. 49-590

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT AND THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COSTS OF DESIGN AND CONSTRUCTION OF PUBLIC PARKING, INFRASTRUCTURE IMPROVEMENTS AND SITE IMPROVEMENTS RELATED TO THE EAST BANK REDEVELOPMENT DISTRICT PURSUANT, WEST BANK APARTMENTS PROJECT AREA.

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

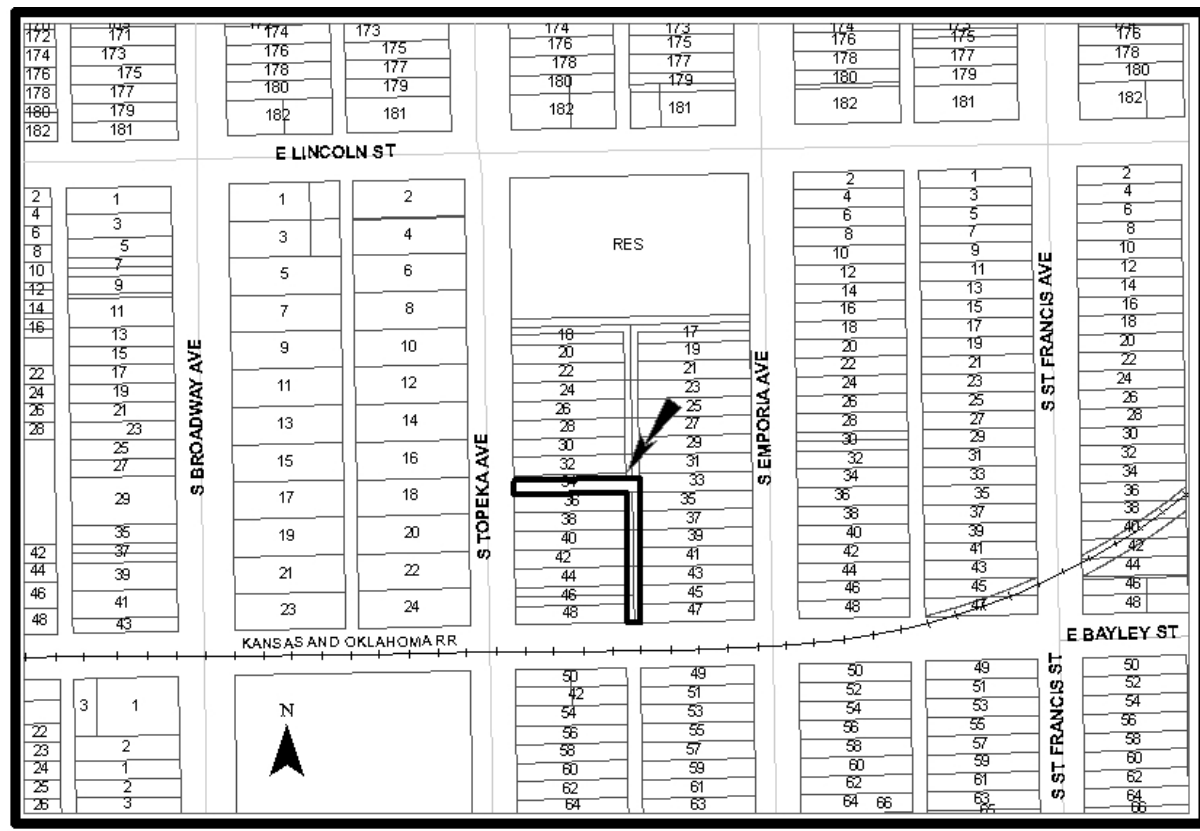
SUBJECT: VAC2013-00016 - Request to vacate an alley dedicated by separate instrument and a portion of a platted alley on property generally located south of Lincoln Street, on the east side of Topeka Avenue. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (11-0).



Background: The applicant is requesting the vacation of the 20-foot wide west-east alley dedicated by separate instrument (FLM372/PG740) and the 18-foot wide platted north-south alley located between Lots 35 and 48 (all), the Zimmerly's 2nd Addition. There are no utilities located in the alley dedicated by separate instrument. There are utilities located in the platted alley. The Zimmerly's 2nd Addition was recorded with the Register of Deeds in 1891.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order, a utility easement dedication by separate instrument and a covenant. A certified copy of the Vacation Order, the utility easement dedication by separate instrument and the covenant will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order.
- A utility easement dedication by separate instrument.
- A covenant.

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF AN ALLEY)
DEDICATED BY SEPARATE INSTRUMENT & A)
PORTION OF A PLATTED ALLEY)**

**GENERALLY LOCATED SOUTH OF LINCOLN)
STREET ON THE EAST SIDE OF TOPEKA AVENUE)**

VAC2013-00016

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22ND day of October, 2013, comes on for hearing the petition for vacation filed by, the Unified School District 259, praying for the vacation of an alley dedicated by separate instrument and a portion of a platted alley, to-wit:

The 20-foot wide west-east alley (dedicated by separate instrument; FLM372/PG740) abutting Lot 32 (north side), Lot 36 (south side), and Topeka Avenue (west side), & the 18-foot wide platted north-south alley located between Lots 35-48 (all), the Zimmerly's 2nd Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on May 16, 2013, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described alley dedicated by separate instrument and the described portion of the platted alley and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. A dedication by separate instrument of a utility easement and a covenant will be file with this Vacation Order at the Sedgwick County Register of Deeds.

6. The vacation of the described alley dedicated by separate instrument and the described portion of the platted alley should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of October, 2013, ordered that the above-described alley dedicated by separate instrument and the portion of the platted alley are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

COVENANT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, Unified School District No. 259, 201 N. Water Street, Wichita, KS 67202, are the owners of the following described real estate, to-wit:

All that parts of Zimmerly's 2nd Addition to the City of Wichita, Sedgwick County, Kansas, bounded on the North by Lincoln Street, on the South by Bayley Street, on the West by Topeka Avenue, and on the East by Emporia Avenue, including School Reserve, all Lots, and all Alleys, as recorded to Wichita, Sedgwick County, Kansas; generally located east of Topeka Avenue and south of Lincoln Street.

NOW THEREFORE, in consideration of receiving approval from the appropriate government authorities for the vacation of that part of the North-South alley lying between Lincoln Street on the North, Bayley Street on the South, Topeka Avenue on the West, and Emporia Avenue on the East, as platted in Zimmerly's 2nd Addition to the City of Wichita, Sedgwick County, Kansas, which lies South of the North line of the South 20 feet of Lot 34, on Topeka Avenue, extended South to a line running east and west following the northern edge of the Bayley Street Right of Way from the South East corner of lot 48 to the South West corner of lot 47, as platted in Zimmerly's 2nd Addition, and as created by vacation case VAC2013-00016,

The undersigned agrees to covenants that the 18-foot wide, above described portion of the vacated platted alley abutting all that part of Zimmerly's 2nd Addition to the City of Wichita, Sedgwick County, Kansas, bounded on the North by Lincoln Street, on the South by Bayley Street, on the West by Topeka Avenue, and on the East by Emporia, shall be retained, held and bound together.

It is also understood that this covenant shall be binding upon the undersigned, his successors and assigns, and shall run with the land until such time as the said properties are replatted.

STATE OF KANSAS)
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 12th day of August, 2013, before me,
the undersigned, a Notary Public, in and for the County and State aforesaid, came

Unified School District No. 259



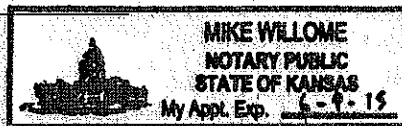


Who is personally known to me to be the same person who executed this written document and
such person duly acknowledged the execution of the same, for and on behalf of the corporation.

IN TESTEMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day
and year above written.

Mike Willome

Notary Public



My Commission Expires: 6-9-2015

UTILITY EASEMENT DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of twelve dollars (\$12.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Unified School District No. 259, 201 N. Water Street, Wichita, KS 67202, being the owner of the following described real estate in Wichita, Sedgwick County, Kansas, to wit:

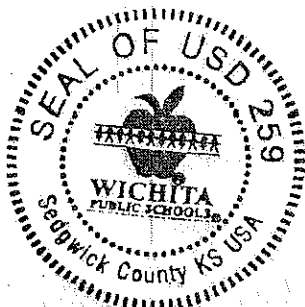
A 20' wide utility easement being more particularly described as:

The East 2' of Lots 36-48 on Topeka Avenue and the 18' alley, between Topeka and Emporia, from the North line of Lots 36 and 35, south to the South line of Lots 48 and 47. Said easement being 175' in length, in Zimmerly's 2nd Addition, to the City of Wichita, Kansas.

do hereby dedicate the above-described real estate to the City of Wichita, Kansas, a municipal corporation, for a perpetual utility easement, as a condition of vacation case VAC2013-00016. And the right is hereby granted to the City of Wichita and franchised public utilities to enter upon said premises at any time for the purpose of constructing, operating, maintaining and repairing said utilities.

Executed this 12th day of August, 2013.

By: 
Unified School District No. 259

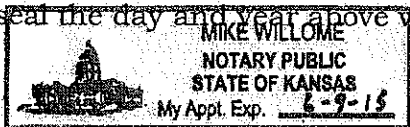


Mike Williams

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 12th day of August, 2013, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came *Unified School District No. 259*, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Mike Willome
Notary Public

My Appointment Expires: 6-9-2015

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: ZON2013-00020 – Zone change from SF-5 Single-Family Residential (SF-5) and Two-Family Residential (TF-3) to LC Limited Commercial (LC) on property generally located east of Waco Avenue, south of Harry Street, between Water Street and Wichita Street. (District III)

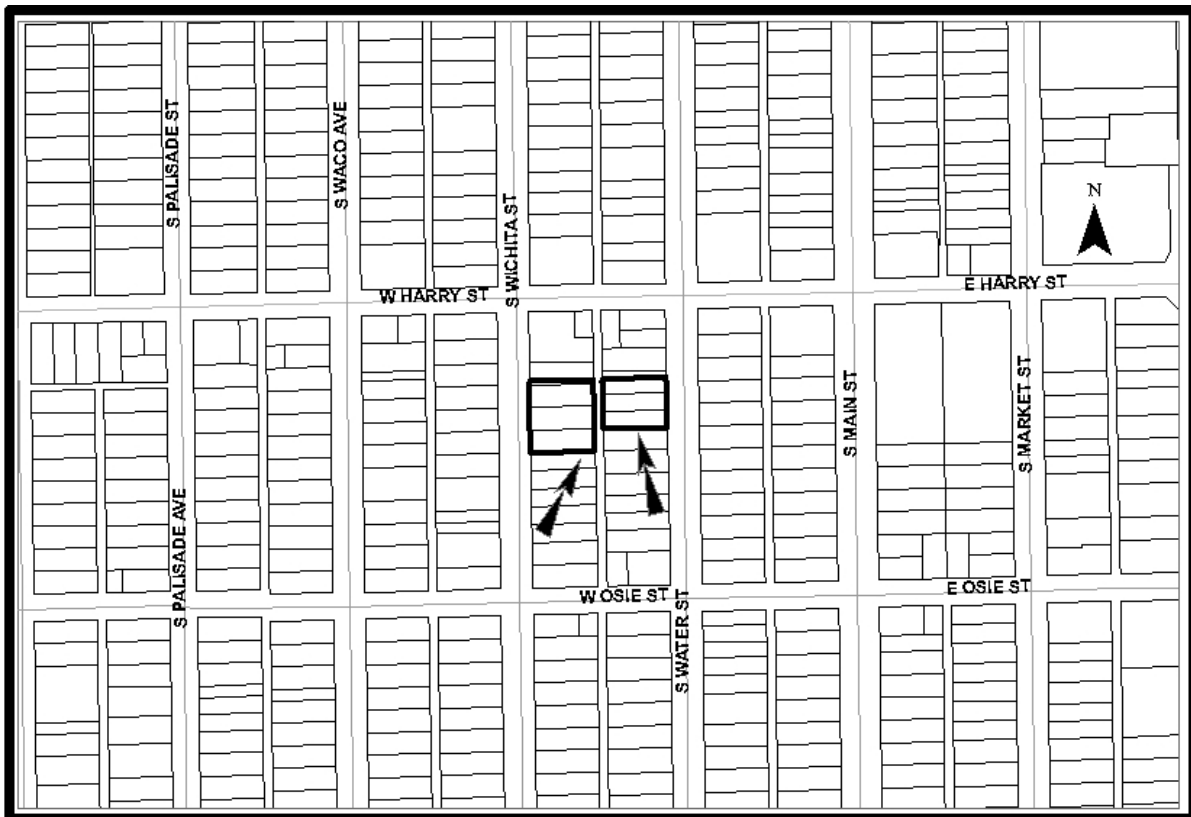
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommends approval (11-0-1).

DAB III Recommendation: DAB III recommends approval (6-0).

MAPD Staff Recommendation: The MAPD staff recommends approval.



Background: The applicant proposes to rezone all or parts of multiple SF-5 Single-Family Residential (SF-5) and TF-3 Two-Family Residential (TF-3) zoned lots to LC Limited Commercial (LC). The requested LC zoning will allow the applicant to expand his flooring and carpet (retail) business located a block east of Waco Avenue, on the south side of Harry Street, between South Wichita Street and South Water Street. The subject site is a mixture of vacant land and vacant buildings.

The subject site has SF-5 and TF-3 zoned single-family residences (built 1900-1920s) abutting its south side. SF-5 and LC zoned single-family residences, a church parking lot and an auto repair garage are located east and west of the site, across South Water Street and South Wichita Street. The applicant's current LC zoned business and properties abut the north side of the subject site.

Analysis: At the District Advisory Board (DAB III) meeting held September 4, 2013, the DAB voted, unanimously (6-0), to approve the requested LC zoning. At the Metropolitan Area Planning Commission (MAPC) meeting held September 12, 2013, the MAPC voted (11-0-1) to approve the requested LC zoning. There were no citizens who spoke against the request at the MAPC or DAB meetings. Planning has received no phone calls protesting the request. There have been no valid protest petitions filed with the City Clerk.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC, approve the zone change and place the ordinance establishing the zone change on first reading (simple majority required).

Attachments:

- Ordinance
- MAPC minutes
- DAB memo

ORDINANCE NO. 49-592

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2013-00020

Zone change from Single-Family Residential (“SF-5”) and Two-Family Residential (“TF-3”) to LC Limited Commercial (“LC”) on an approximately a 0.74-acre property described as:

The South 8 feet of lot 11 and all of lots 13, 15, 17, 19, 21 and 23, on Wichita Street, Smith and Stover’s Addition to Wichita, Sedgwick County, Kansas AND The South 8 feet of lot 12 and all of lots 14, 16, 18 and 20, on Water Street, English’s 6th Addition to Wichita, Sedgwick County, Kansas; generally located east of Waco Avenue, south of Harry Street, between South Water Street and South Wichita Street.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorff, City Attorney

**EXCERPT MINUTES OF SEPTEMBER 12, 2013 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2013-00020 - SCA properties, LLC (owner/applicant) / William M. Johnson (agent) request a City zone change request from SF-5 Single Family Residential and TF-3 Two-family Residential to LC Limited Commercial on property described as:

The South 8 feet of lot 11 and all of lots 13, 15, 17, 19, 21 and 23, on Water Street, Smith and Stover's Addition to Wichita, Sedgwick County, Kansas.

AND

The South 8 feet of lot 12 and all of lots 14, 16, 18 and 20, on Water Street, English's 6th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant proposes to rezone all or parts of 11 SF-5 Single-Family Residential (SF-5) and TF-3 Two-Family Residential (TF-3) zoned lots to LC Limited Commercial (LC). The requested LC zoning will allow the applicant to expand his flooring and carpet (retail) business located a block east of Waco Avenue, on the south side of Harry Street, between Wichita and Water Streets. The subject site is a mixture of vacant land and vacant buildings.

The area has mostly LC zoned property all along Harry Street, from the Arkansas River on the west, then east to Broadway and beyond. The immediate area's LC zoning is typically 150 feet deep off of Harry, with properties developed as small office, a vacant erotic sports bar, the Black Sabbath motorcycle club, a liquor store, smoke shop, auto repair limited, tire sales, personal services, single-family residences, a church and apartments. SF-5, TF-3, and MF-29 Multi-Family Residential zoned single-family residences abut the rear yards of the LC zoned uses that have the Harry Street frontage. The subject site has SF-5 and TF-3 zoned single-family residences (built 1900-1920s) abutting its south side. SF-5 and LC zoned single-family residences, a church parking lot and auto repair are located east and west of the site, across Water and Wichita Streets. The applicants current LC zoned business and properties abut the north side of the site.

CASE HISTORY: The subject properties were originally platted as part of the Smith and Stover's Addition, recorded March 8, 1886, and the Englishes 6th Addition to Wichita, recorded May 25, 1885. The applicant also has a request to vacate a portion of the platted alley that separates the east and west sides of the subject properties, VAC2013-00033, which is on today's MAPC agenda.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Carpet and flooring business, retail, single-family residences, apartments, vacant erotic sports bar
SOUTH:	SF-5, TF-3	Single-family residences
EAST:	LC, SF-5	Church parking lot, single-family residences, church
WEST :	LC, SF-5	Auto repair, single-family residences

PUBLIC SERVICES: Harry Street at this location is a paved four-lane arterial with 60 feet of right-of-way. Water and Wichita Streets are paved local streets with 70 feet of right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” (Guide) map depicts this site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies SF-5 and TF-3 zoning as being generally compatible with the urban residential category, while the requested LC zoning is not compatible with the urban residential category.

The requested LC zoning is generally compatible with the Guide’s “local commercial” category. Property so designated is appropriate for commercial, office and personal service uses that do not have a significant regional market draw, such as: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The subject properties have frontage along the local residential streets Wichita and Water Streets, which could allow vehicular access through the adjacent and abutting single-family residential neighborhoods. However, the subject properties are part of an existing business that has frontage along the arterial Harry Street, which means that traffic can be directed towards Harry, thus partially meeting the locational criteria of the Comprehensive Plan. Access to and from the site can be addressed by the Traffic Engineer as part of the associated vacation case VAC2013-00033. The Planning Commission has in the past considered and supported the expansion of some existing business.

If approved all development standards for the site will be applied, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area has mostly LC zoned property all along Harry Street, from the Arkansas River on the west, then east to Broadway and beyond. The immediate area’s LC zoning is typically 150 feet deep off of Harry, with properties developed as small office, a vacant erotic sports bar, the Black Sabbath motorcycle club, a liquor store, auto repair limited, tire sales, personal services, single-family residences, a church and apartments. SF-5, TF-3, and MF-29 Multi-Family Residential zoned single-family residences abut the rear yards of the LC zoned uses that have the Harry Street frontage. The subject site has SF-5 and TF-3 zoned single-family residences (built 1900-1920s) abutting its south side. SF-5 and LC zoned single-family residences, a church parking lot and auto repair are located east and west of the site, across Water and Wichita Streets. The applicants current LC zoned business and properties abut the north side of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The subject properties are zoned SF-5 and TF-3 which permits single-family residential and duplexes. The location of the subject properties, along the local residential streets

Wichita and Water, and their zoning is not out of character with the abutting and adjacent properties. What is out of character with the residential neighborhood is the vacant land and buildings that are located on the subject properties, as a 1997 aerial shows more development on those lands. This is probably a result of the applicant's incremental acquisition of these properties.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Redevelopment of these properties will remove vacant buildings and fill vacant lands all subject to the current development standards, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving. If approved the requested zoning would allow a neighborhood business to expand and perhaps insure its continued presence.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The applicant is seeking the LC zoning to expand his flooring and carpet business.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" (Guide) map depicts this site as appropriate for "urban residential" uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The UZC identifies SF-5 and TF-3 zoning as being generally compatible with the urban residential category, while the requested LC zoning is not compatible with the urban residential category.

The requested LC zoning is generally compatible with the Guide's "local commercial" category. Property so designated is appropriate for commercial, office and personal service uses that do not have a significant regional market draw, such as: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The subject properties have frontage along the local residential streets Wichita and Water Streets, which could allow vehicular access through the adjacent and abutting single-family residential neighborhoods. However, the subject properties are part of an existing business that has frontage along the arterial Harry Street, which means that traffic can be directed towards Harry, thus partially meeting the locational criteria of the Comprehensive Plan. Access to and from the site can be addressed by the Traffic Engineer as part of the associated vacation case VAC2013-00033. The Planning Commission has in the past considered and supported the expansion of some existing business.

If approved all development standards for the site will be applied, including, but not limited to, access, parking, screening, landscaping, compatibility standards and paving.

6. Impact of the proposed development on community facilities: Possibly more traffic on Water and Wichita Streets, as reviewed by the Traffic Engineer. Drainage will have to be addressed prior to development, as reviewed by Stormwater.

BILL LONGNECKER, Planning staff presented the Staff Report.

FOSTER asked about the diagram on page 5 of the Staff Report.

LONGNECKER said that needed to be deleted. He added that the DAB approved the zone change unanimously.

MOTION: To approve subject to staff recommendation.

WARREN moved, **J. JOHNSON** seconded the motion, and it carried (11-0-1).
B. JOHNSON – Abstained.

9-12-13 MAPC

HAND OUT

ITEM 6



**INTEROFFICE
MEMORANDUM**

TO: MAPC
FROM: Janet Johnson, Neighborhood Assistant, District III
SUBJECT: ZON2013-00020: request for a change from SF-5 Single-Family Residential (SF-5) & TF-3 Two-Family Residential (TF-3) to LC Limited Commercial (LC)

DATE: Sept. 6, 2013

On Wednesday, Sept. 4, 2013 the District III Advisory Board considered a request for a change from SF-5 Single-Family Residential (SF-5) & TF-3 Two-Family Residential (TF-3) to LC Limited Commercial (LC) for 0.74-acres located east of Waco Ave., south of Harry Street, between Water and Wichita Streets. The proposed use is for an expansion of existing carpet and flooring store.

The DAB members were provided the MAPD staff report for review.

The DAB members were pleased that a business owner wants to expand and improve a business in this older neighborhood.

The DAB members voted 6-0 to recommend approval of the request.

Please review this information when **ZON2013-00020** is considered.

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

SUBJECT: VAC2013-00029 - Request to vacate a portion of a platted setback on property generally located south of 13th Street North, on the west side of Maize Road and on the south side of Maize Court. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (8-0).



Background: The applicant proposes to vacate the south 15 feet of the platted 35-foot street side yard setback running parallel to north lot lines of Lots 1 and 2, Huntington Park Addition and the south side of the Maize Court right-of-way. The LC Limited Commercial (LC) zoned site is subject to the development standards contained in the Community Unity Plan (CUP) DP-153. The minimum setback for a CUP is 35 feet from all street right-of-way and alleys; Unified Zoning Code (UZC) Sec.III-C.2.b.(2)(a)1). The minimum street side yard setback for the LC zoning district is 10 feet; UZC Sec.III-B.14.d.(6). The west, adjacent setback (located along the west side of the Maize Court right-of-way) on Lot 2 was approved on the CUP and plat with a 25-foot setback. The Planning Commission or Governing Body may modify or waive a CUP's setback standard as part of approval or amendment to a CUP; UZC Sec.III-C.2.d. The public hearing process to vacate a portion of the platted setback serves as an amendment. There are no platted easements or utilities located within the described portion of the platted setback. The Huntington Park Addition was recorded with the Register of Deeds January 8, 1998.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order.

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PORTION)
OF A PLATTED SETBACK)**

**GENERALLY LOCATED SOUTH OF 13TH STREET)
NORTH, ON THE WEST SIDE OF MAIZE ROAD, ON)
THE SOUTH SIDE OF MAIZE COURT)**

VAC2013-00029

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22ND day of October, 2013, comes on for hearing the petition for vacation filed by, Maize Road Partnership, c/o the Baughman Company, P.A., c/o Russ Ewy (agent for the owner), praying for the vacation of a portion of a platted setback, to-wit:

The South 15 feet of the 35-foot platted building setback along the North line of Lots 1 and 2 as platted in the Huntington Park Addition, Wichita, Sedgwick County, Kansas; EXCEPT the West 35 feet thereof, and EXCEPT the East 35 feet thereof.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on August 1, 2013, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the

above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portion of the platted setback should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of October, 2013, ordered that the above-described portion of the platted setback is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

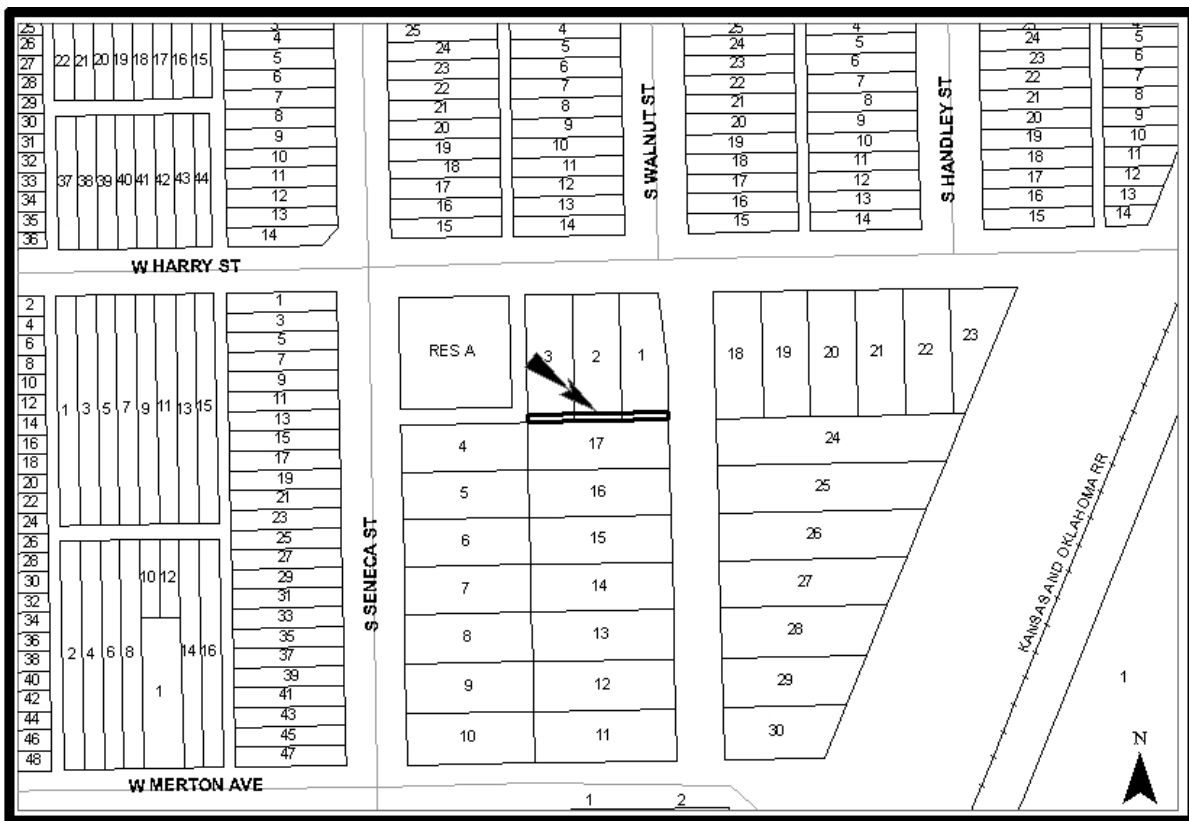
SUBJECT: VAC2013-00030 - Request to vacate an easement described in the platlor's text on property generally located east of Seneca Street, on the south side of Harry Street. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (12-0).



Background: The applicant proposes to vacate the 10-foot wide utility easement that runs parallel to the south lot line of Lots 1, 2, and 3, Merton Park Addition. All utility easements are described in the platlor's text, in regards to its location and size. There are no utilities in the subject easement. The Merton Park Addition was recorded with the Register of Deeds Aug 3, 1939.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order.

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

IN THE MATTER OF THE VACATION OF A UTILITY EASEMENT DESCRIBED IN THE PLATTOR'S TEXT)	
)	
)	
)	
GENERALLY LOCATED EAST OF SENECA STREET ON THE SOUTH SIDE OF HARRY STREET)	VAC2013-00030
)	
)	
)	
<u>MORE FULLY DESCRIBED BELOW</u>)	

VACATION ORDER

NOW on this 22ND day of October, 2013, comes on for hearing the petition for vacation filed by the Layne Western Company, c/o Rusty W. Redding (agent for the owner), praying for the vacation of a utility easement described in the plattor's text, to-wit:

All of the 10 foot wide Utility Easement described as the South 10 feet of Lots 1, 2 and 3 in Merton Park Addition to the City of Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on August 22, 2013, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described utility easement described in the plattor's text and the public will suffer no loss

or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portion of the utility easement described in the plattor's text should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of October, 2013, ordered that the above-described portion of the utility easement described in the plattor's text is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

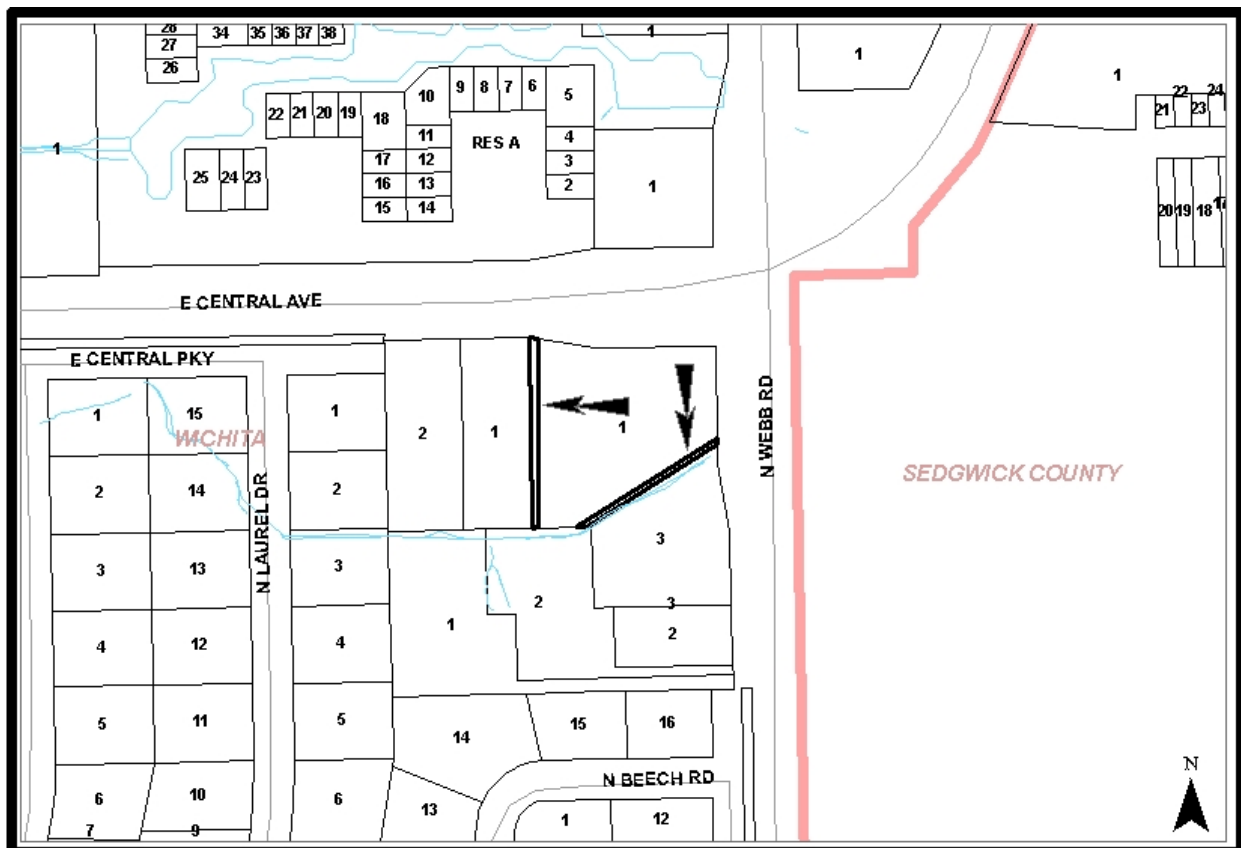
SUBJECT: VAC2013-00034 - Request to vacate a portion of a platted drainage easement and a platted utility easement on property generally located on the southwest corner of Central Avenue and Webb Road. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (12-0).



Background: The applicant proposes to vacate the platted 10-foot wide utility easement running parallel to the west lot line of Lot 1 and the platted 10-foot wide drainage easement running parallel to most of the south lot line of the same Lot 1, all in the Forest Hills Office Park Second Addition. There are no public utilities in the platted 10-foot wide utility easement, nor is there a parallel easement on the west, abutting Lot 1, Forest Hills Office Park Third Addition. Westar has utilities located within the area of the subject utility easement that the applicant has addressed to the satisfaction of Westar. There is no public drainage equipment in the platted 10-foot wide drainage easement. There is a parallel platted 10-foot wide drainage easement located on the south, abutting Lots 2 and 3, Forest Hills Office Park Fourth Addition. There is surface drainage in the area of the drainage easements, which has been addressed by the applicant to the satisfaction of the Stormwater Engineer. The Forest Hills Office Park Second Addition was recorded with the Register of Deeds November 5, 1980.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order.

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PLATTED)
UTILITY EASEMENT AND A PLATTED DRAINAGE)
EASEMENT)**

**GENERALLY LOCATED ON THE SOUTHWEST)
CORNER OF CENTRAL AVENUE AND WEBB ROAD)**

VAC2013-00034

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22ND day of October, 2013, comes on for hearing the petition for vacation filed by MKRE, c/o Matt Bengtson (owner), praying for the vacation of the following described portions of a platted utility easement and a platted drainage easement, to-wit:

The 10 foot platted Utility Easement within the west 10 feet of Lot 1, AND ALSO, The 10 foot platted Drainage Easement within the south 10 feet of said Lot 1, all in the Forest Hills Office Park Second Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on August 22, 2013, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the

above-described portions of the platted utility easement and the platted drainage easement and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portions of the platted utility easement and the platted drainage easement should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of October, 2013, ordered that the above-described portions of the platted utility easement and the platted drainage easement are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
October 22, 2013

TO: Mayor and City Council

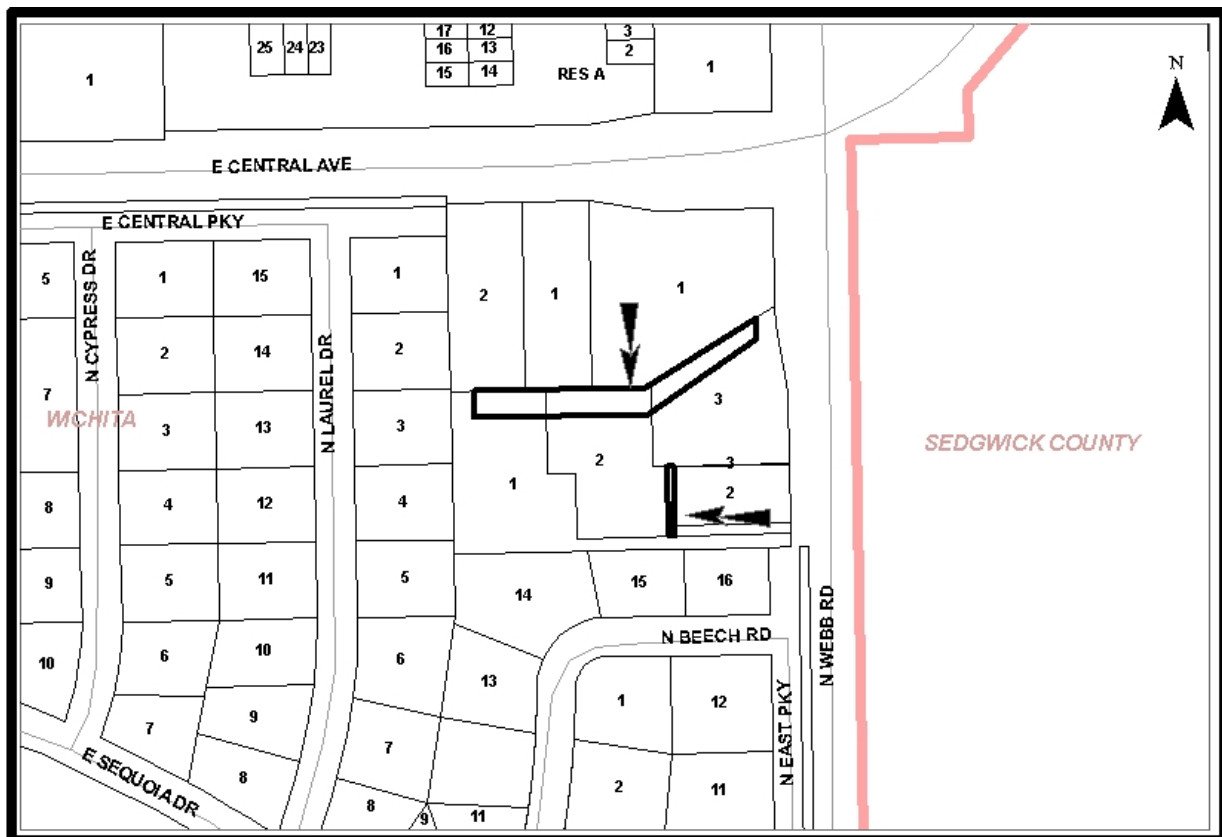
SUBJECT: VAC2013-00035 - Request to vacate a portion of a platted setback and a platted utility easement on property generally located south of Central Avenue, on the west side of Webb Road. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (12-0).



Background: The applicant proposes to vacate the platted 40-foot and 30-foot wide interior side yard setbacks running parallel to the north lot lines of Lots 1, 2 and 3 and the platted 10-foot wide utility easement running parallel to the east, interior lot line of Lot 2, all in the Forest Hills Office Park Fourth Addition. The minimum interior side yard setback for the LC Limited Commercial (LC) zoning district is zero feet or five feet if one is provided; UZC Sec.III-B.14.d.(5). There is a 20-foot and 10-foot wide private drainage easement located within the platted setbacks. There are no utilities located within the platted 10-foot utility easement. The Forest Hills Office Park Fourth Addition was recorded with the Register of Deeds on December 1, 1982.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order.

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PLATTED)
UTILITY EASEMENT AND A PLATTED SETBACK)**

**GENERALLY LOCATED ON THE SOUTH OF CENTRAL)
AVENUE ON THE WEST SIDE OF WEBB ROAD)**

VAC2013-00035

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22ND day of October, 2013, comes on for hearing the petition for vacation filed by MKRE, c/o Matt Bengtson (owner), praying for the vacation of the following described portions of a platted utility easement and a platted setback, to-wit:

All of the 10 foot platted Utility Easement lying within the easterly 10 feet of Lots 1, and 2, the southwest corner of said 10 foot Utility Easement being 182 feet west of the southeast corner of said Lot 1 AND ALSO, A 40 foot platted Building Setback within the north 40 feet of Lot 1, 2, and 3, EXCEPT the west most 35 feet thereof, all in the Forest Hills Office Park Fourth Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on August 22, 2013, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described portions of the platted utility easement and the platted setback and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portions of the platted utility easement and the platted setback should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of October, 2013, ordered that the above-described portions of the platted utility easement and the platted setback are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

Wichita, Kansas
October 21, 2013
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Martha Strayer, Administrative Assistant, Public Works Engineering in the Chair; Fanny Chan, Accountant, Finance, representing the Director of Finance, Troy Tillotson, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Eoghan Miller, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated October 7, 2013, were read and on motion approved.

Bids were opened October 18, 2013, pursuant to advertisements published on:

WICHITA AIRPORT AUTHORITY/ADMINISTRATION DIVISION: Operation of Rental car Concessions at Wichita Mid-Continent Airport.

Midwest Car Corporation*	\$200,020.00 – Minimum Annual Guarantee Brand - National Car Rental and Alamo Rent-A-Car
The Wichita Landsmen, LLC*	\$230,000.00 – Minimum Annual Guarantee Brand - Budget Rent A Car
Avis Budget Car Rental, LLC*	\$595,000.00 – Minimum Annual Guarantee Brand - Avis Rent A Car and Payless Car Rental
DTG Operations, Inc. dba Dollar Rent A Car and Thrifty Car Rental*	\$227,600.00 – Minimum Annual Guarantee Brand – Dollar Rent A Car and Thrifty Car Rental
The Hertz Corporation*	\$486,000.00 – Minimum Annual Guarantee Brand -Hertz
EAN Holdings, LLC*	\$540,819.00 – Minimum Annual Guarantee Brand - Enterprise Rent-A-Car

*Award all six vendors

The Purchasing Division recommended that the contracts be awarded as outlined above.

On motion the Board of Bids recommended that the contracts be awarded as outlined above.

On motion the Board of Bids adjourned.

Martha Strayer, Administrative Assistant,
Department of Public Works

Janis Edwards CMC
Deputy City Clerk